[Mr. K. P. Raman Pillai.]

THE TRAVANCORE EZHAVA BILL.

CLAUSE 13.

The following amendment was not moved:—

MR. A. GOVINDA MENON: Lines 2 and 3. Delete the words "in respect of their person or property", and delete the whole of paragraph 2.

MR. K. P. RAMAN PILLAI: I beg to move that the following be inserted as part of clause 13:

"Failing the husband, the legal guardianship of the minor girl passes to the following relatives in the order enumerated below:—(1) father, (2) mother, (3) full brother, (4) uterine brother, (5) consanguine brother, (6) full maternal uncle, (7) maternal aunt and other maternal relatives; failing the father, the legal guardianship of the minor children shall pass to the mother and other relatives as above enumerated. Provided that, in case where the marriage is dissolved otherwise than by death, the mother shall have precedence over the father".

DEPUTY PRESIDENT: Before we proceed further, I wish to know whether you would insist on having the portion from "failing the father", etc., to the end. Is not that implied in the earlier portion itself?

MR. K. P. RAMAN PILLAI: It does not interfere with the existing clause 13.

DEPUTY PRESIDENT: No, that is not the question.

"Failing the husband, the legal guardianship of the minor girl passes to the following relatives in the order enumerated below:—

(1) father, (2) mother, (3) full brothers, (4) uterine brothers, (5) consanguine brothers, (6) full maternal uncle, (7) maternal aunt and other maternal relatives".

Then you say "failing the father, the legal guardianship of the minor children shall pass to the mother and other relatives as enumerated above". Do you want that?

MR. K. P. RAMAN PILLAI: Yes, I want that also.

DEPUTY PRESIDENT: Is it not covered by the earlier portion?

MR. K. P. RAMAN PILLAI: No, because the earlier portion is only as regards guardianship of the minor wife or widow. The latter is about the minor children.

DEPUTY PRESIDENT: Yes, you may go on.

MR. K. P. RAMAN PILLAI: The existing section makes provision only for the guardianship of the minor wife on the death of the husband, and makes the father her legal guardian, but no provision is made in case the father dies or fails to be the legal guardian on account of legal disability or otherwise. That is the reason why I urge that the first portion of my amendment might be inserted.

As regards the second part of my amendment, the first part of the existing clause makes the husband the legal guardian of the minor wife, and the father the legal guardian of the minor children, in respect

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of their person or property. No provision has been made in case the husband or father fails to be the guardian. I think it is necessary to make some provision without leaving them to take care of themselves, especially in the nature of the alterations we are making in intestate succession and partition; and so I move that the amendment be taken up.

MR. P. K. NARAYANA PILLAI: I second it.

MR. V. SUBBA AIYAR: I think it will be better to leave the enumeration of the eligible guardians to the ordinary law itself; because once you begin to enumerate the legal guardians in their order, there will be difficulty. In the case of the wife, it was considered necessary to make the husband the legal guardian, and in the case of the children, the father. To this extent, it is proposed to make a deviation from the existing law. In the absence of the husband or the father, the guardianship will be, according to the existing *Marumakkathayam* law, in the *karanavan*. So, I do not think it is necessary to enumerate. If, however, it is thought necessary, I would say, instead of "failing the husband....." and "failing the father....." the following, that "failing the husband and the father the legal guardianship of minors shall be vested in relations, in the order mentioned below". I believe that will be enough. If, when the husband dies, the wife is a minor, the father steps in and after him the mother. The other guardians will be the same whether the minor is the wife or the child. I would also suggest that consanguine brothers should come at the end. As I have already stated, I think it will be better not to have any such enumeration. I have, however, no objection to the last clause, *viz.*, "Provided that in case where the marriage is dissolved otherwise than by death the mother shall have precedence over the father". I think that will be a necessary provision because, where a divorce takes place, it is desirable that the mother should be the guardian.

DEPUTY PRESIDENT: Do you object to the amendment in the form in which it stands?

MR. K. P. RAMAN PILLAI: I have no objection to accept the Law Member's amendment, *viz.*, the portion beginning from "consanguine brothers" to the end.

MR. V. SUBBA AIYAR: What I said was that I agree to the proviso being put in. You may put it as a proviso. I object to the enumeration itself, and therefore to the amendment as it is.

DEPUTY PRESIDENT: Do you press the amendment, Mr. K. P. Raman Pillai?

MR. K. P. RAMAN PILLAI: I do. Mr. Subba Aiyar's suggestion that the *karanavan* may step in under the existing law cannot be accepted, because we are going to make a provision for partition whether individual or *thavazhee*. As it is, we are trying to drive away the *karanavan* and to ask him now to be the guardian may be an unnecessary burden.

DEPUTY PRESIDENT: It might be *thavazhee* partition.

MR. K. P. RAMAN PILLAI: At any rate the tendency is to cast the *karanavan* away. Therefore, we should provide for guardians persons who would be willing and who would have an interest in the minor's welfare.

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[Mr. P. K. Narayana Pillai.

DEPUTY PRESIDENT: Excepting the mother, these are likely to be the *karanavans* of the *thavazhees*.

The question is, that the following be inserted as part of clause 13:-

"Failing the husband, the legal guardianship of the minor girl passes to the following relatives in the order enumerated below: (1) father, (2) mother, (3) full brothers, (4) uterine brothers, (5) consanguine brothers, (6) full maternal uncle, (7) materna aunt and other maternal relatives failling the father, the legal guardianship of the minor children shall pass to the mother and other relatives as above enumerated. Provided that in case where the marriage is dissolved otherwise than by death, the mother shall have precedence over the father."

The amendment was put and lost.

MR. K. PARAMESVARAN PILLAI: Sir,—

DEPUTY PRESIDENT: Do you want to suggest any amendment, Mr. K. Paramesvaran Pillai?

MR. K. PARAMESVARAN PILLAI: I suggest that 'and' be substituted for 'or' between 'person' and 'property'.

DEPUTY PRESIDENT: I will permit you to move it, if you want to move it as an amendment. Do you formally move the amendment?

MR. K. PARAMESVARAN PILLAI: I am suggesting it.

MR. V. SUBBA AIYAR: 'Person or property' means also both. It is perfectly correct.

MR. K. PARAMESVARAN PILLAI: But, in clause 14, it is different.

DEPUTY PRESIDENT: I have to put clause 13 now unless you press your amendment.

MR. P. K. NARAYANA PILLAI: I propose an amendment. There is nothing in clause 13 to secure deliverance from the powers of the guardians under the Regulation. The statutory declaration of the guardianship, say, even of the husband, should not stand in the way of the District Court appointing another guardian under the Guardians and Wards Regulation if the interests of the minor call for such a course.

DEPUTY PRESIDENT: Do you want the power to be expressly provided in this regulation?

MR. P. K. NARAYANA PILLAI: Yes, because where the guardian is statutorily recognised by this bill, the discretion of the court to remove such guardian may be called in question. To save that,——

DEPUTY PRESIDENT: All right, you may move it formally.

MR. P. K. NARAYANA PILLAI: There is a proviso already there. I will add one more:

"Provided further, that nothing in this Regulation shall affect the power of the District Court to remove the guardian of any minor and appoint another instead, if the interests of the minor require such a step."

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MR. K. PARAMESVARAN PILLAI: I second it.

MR. V SUBBA AIYAR: An amendment of this kind, I think, should have proceeded with some notice, so that we may know whether we are to accept it or not. But, at the same time, I may say, even if a particular person is the proper or legal guardian and if he does not conduct himself in the way in which he ought to do, and proves himself unfit, the court, I believe, has got powers to remove the guardian and put in another. I do not know whether such a thing should be expressly stated in the section itself.

MR. P. K. NARAYANA PILLAI: If the Law Member will assure us,—

MR. V. SUBBA AIYAR: How can I? I had no notice of the amendment. Further, I do not know what my assurance is worth. So far as the courts are concerned,—

DEPUTY PRESIDENT: The powers of removing a guardian cannot be taken away unless you say that nobody else shall be appointed.

MR. V. SUBBA AIYAR: There is no doubt that, in cases where there are statutory guardians, the court will not appoint a guardian; but, if that guardian is unfit and has to be removed, I do not think the power of the court would be unavailable. I do not think any specific provision is necessary. When I said I could not give an assurance, I meant to say that the courts are not bound by my assurance. All the same, I may say that the courts will have power to interfere in such cases.

DEPUTY PRESIDENT: Do you press your amendment, Mr. Narayana Pillai?

MR. P. K. NARAYANA PILLAI: I do press, especially in view of the language used in this particular clause, according to which I doubt whether the courts would be in a position to exercise discretion.

DEPUTY PRESIDENT: In the first instance, any guardian named in the statute or appointed under a testament will be confirmed in that place by a court of law; but, if it is brought to the notice of the court that he is undesirable or is not doing his duties properly, the inherent power of the court to appoint a new guardian is not in any way affected. Ordinarily, a court would not interfere with the guardian named in the statute; but if he is found to be an undesirable guardian, in the best interests of the minor, the inherent power of the court to appoint a new guardian, is not taken away by any provision made in this statute. That seems to be Mr. Subba Aiyar's view also.

MR. P. K. NARAYANA PILLAI: There is absolutely no objection to state that in the section itself.

DEPUTY PRESIDENT: That is a different affair. That is not the direct function of the legislature. If you press your amendment, I will put it to the vote.

MR. P. K. NARAYANA PILLAI: I press it.

The amendment was put and lost.

Clause 13 was then put and carried.

The clause was added to the bill.

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[Mr. P. Paramesvaran.]

Clause 14.

The following amendments were not moved:—

MR. A. GOVINDA MENON: Lines 1 and 2. Delete "deceased or".

MR. A. HOOGEWERF: Delete "or divorced" in line 2, and substitute the words "by a deceased husband" for the words "by a former husband deceased" in line 1.

MR. K. P. RAMAN PILLAI: Delete the whole clause.

DEPUTY PRESIDENT: The question is that clause 14 stand part of the bill.

Clause 14 was then put and carried.

The clause was added to the bill.

Clause 15.

MR. N. KUMARAN: I beg to move that "they shall take in equal shares" be substituted for "they shall be entitled to" in lines 2 and 3. The amendment does not contemplate any radical change.

MR. V. SUBBA AIYAR: I think it would be better to take up Mr. Paramesvaran's amendment first. The wording will depend upon what the decision on that is to be.

DEPUTY PRESIDENT: Mr. Kumaran, have you any objection to Mr. Parameswaran's amendment being taken up?

MR. V. SUBBA AIYAR: Because, if it is carried, Mr. Kumaran may have to make some alterations in his amendment.

DEPUTY PRESIDENT: You may move your amendment, Mr. Paramesvaran.

MR. N. KUMARAN: No, Sir; I may also say that, if mine is carried, the other becomes impossible. Anyhow, I will abide by the decision of the Chair.

DEPUTY PRESIDENT: The next amendment runs as follows:—

Line 3. Substitute the words "one-half" for the words "the whole," and add the following at the end:—"the other half devolving on his *tharazhee*."

Mr. Paramesvaran, you may move your amendment.

MR. P. PARAMESVARAN: ഇതിൽ നാലാം വരിയിൽ, മുഴുവൻ സ്വത്തിനു" എന്നതിനു പകരം "പകുതി സ്വത്തിനു" എന്നു് ചേർക്കണം. മിശ്രരായക്കാരായ ഞങ്ങളുടെ ഇടയിൽ സ്വാർജ്ജിതമായാലും പ്രത്യേകസ്വത്തായാലും ഉള്ള സ്വത്തിൽ നേരുപകുതിയ്ക്കു ജന്മസിദ്ധമായ അവകാശം മക്കൾക്കുണ്ടു്. ഇതിനെ ബഹുമാനപ്പെട്ട ചെറക്കോട്ടു സമ്മതിച്ചിട്ടുണ്ടു്. ശേഷമുള്ള പകുതിയെ കുടുംബത്തിലേക്കു ചേർക്കുന്നതാകുന്നു ഞങ്ങളുടെയിടയിൽ നടപ്പു. ഈ നടപ്പിനു് നിയമപ്രാബല്യം ഉണ്ടാക്കിത്തരണം എന്നാകുന്നു ഞങ്ങളുടെ അഭ്യർത്ഥന. ഇതിനു വിപരീതമായ സ്വത്തു മുഴുവനും ഓഹ്യയ്ക്കും കുഞ്ഞുങ്ങൾക്കും കൊടുക്കണമെന്നു മിശ്രരായ

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ക്കാരായ ഞങ്ങൾ ഒരിക്കലും ഗവർൺമെൻറിനോട് ആവശ്യപ്പെട്ടിട്ടില്ല. സാമുദായിക കാര്യങ്ങളിൽ ഒരു നിയമമുണ്ടാക്കുമ്പോൾ ആ സമുദായത്തിൽ പെട്ട ജനങ്ങളുടെ ആവശ്യം അനുസരിച്ചു മാത്രമേ നിയമം ഉണ്ടാക്കാവൂ. ഞങ്ങളുടെ പൊന്നുതമ്പുരാൻറെ ഗവർൺമെൻറ് അപ്രകാരമേ ചെയ്യുമെള്ള എന്നു ഞങ്ങൾക്കു നല്ല നിശ്ചയം ഉണ്ട്. എന്നാലിരിക്കിലും, മിശ്രമായ സമുദായക്കാരായ ഞങ്ങളുടെ ആശയത്തേയും അഭിലാഷത്തേയും നടപ്പിനേയുംപറ്റി ശരിയായ അറിവുകൂടാ ഞങ്ങളുമായി ആലോചിച്ചു ഗവർൺമെൻറിനെ ധരിപ്പിക്കുന്നതിനു ലാകമ്മറിയിലെ മിശ്രമായക്കാരായ മെംബർമാർ ഉദാസീനത കാണിച്ചു. തന്നിമിത്തം, ഞങ്ങളുടെ വാസ്തവസ്ഥിതി ഗവർൺമെൻറു അറിയാൻ ഇടയാകാതെയായി. ഇവരുടെ റിപ്പോർട്ട് കിട്ടിയതിൻമേൽ മാത്രമേ മിശ്രമായസമുദായത്തിൻറെ ആശയം ഗവർൺമെൻറ് അറിയാൻ ഇടയായിട്ടില്ല എന്നു വ്യക്തമായുള്ള.

തിരുവനന്തപുരം ഡിവിഷൻ മുഴുവനിലും, കൊല്ലം, കൊട്ടാരക്കര, പത്തനാപുരം എന്നീ താലൂക്കുകളിലും പാക്കുന്ന ഈഴവരിൽ പ്രത്യേകിച്ചും കരനീരുവയും വോട്ടധികാരവും ഉള്ളവരിൽ ഫ ഠ ഠ ന ൻ ഠ വീതം പേരും ഞാൻ ഇപ്പോൾ വാദിക്കുന്ന അഭിപ്രായമുള്ളവരാണെന്നുള്ള സംഗതിയെ, എൻറെ മാന്യസഹോദരങ്ങളേ, നിങ്ങൾ ഓരോരുത്തരും പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാകുന്നു. ഈ ജനങ്ങൾ എല്ലാപേരുടേയും അപേക്ഷ അവഗണിച്ചു സെലക്ട് കമ്മിറിക്കാരുടെ ബില്ലിനെമാത്രം അനുകൂലിക്കാൻ നിങ്ങൾ തുനിയരുതെന്നും മേൽപറഞ്ഞ താലൂക്കുകളിലെ നിവാസികളായ മഹാജനങ്ങൾക്കു വേണ്ടി ഞാൻ വീണ്ടും അപേക്ഷിച്ചുകൊള്ളുന്നു. ഇവരുടെ അഭിപ്രായം ഈ വിധത്തിലാണെന്ന് എൻറെ സമുദായത്തിലുള്ളവർ അവർ പാക്കുന്ന താലൂക്കുകളിലെ മെംബർമാരെ ഹാജി മൂലം പ്രത്യേകം അറിയിച്ചിട്ടുണ്ട്. അനേകം ഹാജികൾ ഗവർൺമെൻറിലേക്കും അയച്ചിട്ടുണ്ട്. അനേകം ഹാജികൾ എനിക്കും കിട്ടിയിട്ടുണ്ട്. അവയെ ഈ സഭയിൽ സമർപ്പിച്ചിട്ടും ഉണ്ട്. അതുകൊണ്ടു ഞങ്ങളുടെ അഭിപ്രായത്തെ അടിസ്ഥാനപ്പെടുത്തി വേണം നിയമം ഉണ്ടാക്കേണ്ടതു്.

ഇക്കാര്യത്തെപറ്റി സെലക്ട് കമ്മിറിയിലെ മെംബർ ആയിരുന്ന ശ്രീമാൻ സി. രാമൻതമ്പി ഇപ്രകാരം പറഞ്ഞിരിക്കുന്നു. "ഇക്കാര്യങ്ങളിൽ ന്യായമായതു ഈഴവരുടെയിടയിലും ഈഴവരുടെയിടയിലും ഉള്ള നടപ്പു പോലെ ആകുന്നു. അതിനാൽ ഒരു പുരുഷൻറെ സമ്പാദ്യത്തിൻറെ പകുതിക്കു മാത്രം വിധവയ്ക്കും മക്കൾക്കും അവകാശം കൊടുത്താൽ മതി എന്നാണു് എൻറെ സ്വന്തം അഭിപ്രായം."

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[Mr. V. Subba Aiyar.]

അതുകൊണ്ട് മിശ്രദായക്കാരുടെ പൂർവ്വാചാരത്തെ സ്ഥിരപ്പെടുത്തി ഫാ ര ാ വകുപ്പിൽ "സാജ്ജിതസ്വത്തിൽ പകുതിക്കുമാത്രമേ ഭാര്യയ്ക്കും മക്കൾക്കും അവകാശമുള്ളൂ" എന്നു തിരുത്തി വ്യവസ്ഥനടപ്പാക്കുന്നതിനായി

"മറ്റേ പകുതി അയാളുടെ തായ്വഴിക്കു പോരേണ്ടതാണെന്നു" ള്ള തെ വാചകം ഒടുവിൽ ചേർക്കണം.

MR. G. PARAMESVARAN PILLAI: I second the amendment.

MR. V. SUBBA AIYAR: This is, I believe, one of the few sections in which there seems to be a hot controversy between some of the sections of the Ezhavas. As I observed the other day, when we were trying to legislate for the Ezhavas, we confined our attention to *marumakkathayam* Ezhavas and *misradayam* Ezhavas. The committee took evidence on the point, and from the report we find that, out of 792 male witnesses and 10 female witnesses examined, so many as 607 were for the whole of one's acquisition being given to one's wife and children. That is to say, 607 out of 802 or more than 75 per cent. were for the whole being given to the wife and children. 37 were for giving more than one-half, but less than the whole; and 158 were for giving one-half to the wife and children. Thus we find that, if we take the whole of the Ezhava witnesses examined, a very large majority are for giving the whole to the wife and children. Analysing the evidence still further, we find that, among *marumakkathayam* witnesses, 467 out of the 537 were for giving the whole to the wife and children. In other words, we find that, so far as the *marumakkathayam* Ezhavas are concerned there seems to be a consensus of opinion that the wife and children should be entitled to the whole. We have not heard from them till now that the provision is unsuitable to them or that the evidence is not reliable or that that provision should not stand; but the real section that objects to the provision seems to be the *misradayam* Ezhavas. We find that, out of a total number of 265 *misradayam* witnesses, 140 were for giving the whole to the wife and children. We also find that 37 were for giving more than one-half and 90 for giving only one-half. So that, even among *misradayees* there seems to be a majority; but that majority, I may admit, is only a narrow majority, so that we may fairly take it that, so far as the evidence goes, the opinion of the *misradayam* people seems to be divided.

The next question for the House to consider, in this state of affairs, is whether we should allow the whole of the property to be given to the wife and children, or only one-half as now proposed by Mr. Paramesvaran. Here again, I may observe that, although it is suggested that a half is now ordinarily given among *misradayam* people, as a matter of fact it does not seem to be limited to that. It is a little more than half, because, in Quilon, I know that, as a matter of fact, they get 11/20

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as a matter of right, and they are also entitled to hold the properties of the deceased for one year. This is commonly called *valsaravakasam*; and if we capitalise the profit at 5 per cent., we may fairly take it that they get 12/20. In other words, they get 5/8 or rather more than one-half and less than three-fourths. This is the practice in Quilon. I do not know what the figure will work up to in Trivandrum and Chirayinkil. The practice here seems to be giving a half to the wife and children. When the tendency among the Ezhavas is for the whole being given and when we are trying to improve the existing state of affairs, I do not know whether even the section of the community whom Mr. Paramesvaran represents would like to stick to the existing practice and not advance a bit. So that, I rather fear that Mr. Paramesvaran's attempt to stick to the old one-half, or I would say to reduce the existing 12/20 to a half, will be unacceptable.

But, we have at the same time to take into consideration certain circumstances which, though not specified by Mr. Paramesvaran, are circumstances that may have to be taken into consideration in deciding the question. In the first place, when the intestate dies leaving his wife and children and also the mother, it may be hard that the wife and children should get the whole of it and the mother should not get anything. It may be that the mother, though originally poor, may have been living in affluent circumstances during the life-time of the son. The moment the son dies, she is not even entitled to maintenance. That seems to be the argument of some, which deserves notice. That is a matter that may have to be considered.

One other circumstance has also to be taken into consideration. While the Law Committee recommended that the wife and children should be entitled to the whole of the intestate's property that may be acquired after the passing of this Regulation, in other words that whatever has been acquired till the commencement of this Regulation will be governed by the old law, and the acquisitions made after the passing of the Regulation will alone be governed by the new law. There were very many difficulties in accepting the committee's report on that point, as I will be able to explain later on when dealing with another amendment which has been tabled *viz.*, that "after the passing of this Regulation" should be put in there. But, at the same time, on account of the difficulties that provision was modified. So that under the Law Committee's report the *anandaravars* were expecting a share of the acquisition till now and this they have forfeited by the report of the Select Committee. These are the only two points in favour of the amendment, and nothing else.

Mr. T. K. VELU PILLAI: If this section will be materially changed by the other section to which my friend has referred, seeing that the members may agree only to "after the passing of this Regulation", would it not be better to take this section after that has been considered? The Law Member believes that that is relevant to the discussion of this section. Probably, we may come to a dead conclusion if that section is taken up and disposed of first.

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[Mr. A. Govinda Menon.]

DEPUTY PRESIDENT: That is not one of the clauses as settled by the Select Committee. It is only an amendment. If it is one of the clauses, your arguments would be entitled to much weight.

MR. T. K. VELU PILLAI: Since Mr. Subba Aiyar relied on it, I thought there was great weight in it.

MR. V. SUBBA AIYAR: I say these are the two circumstances in favour of the amendment. But, we have, at the same time, to take into consideration the fact that among Ezhavas the wife lives with the husband from the moment of marriage. Both of them work together and the wife contributes a great deal to the self-acquisition of the husband. It was this circumstance mainly which weighed with us; and taking into consideration the growing tendency of the time also, we said that the wife and children should get the whole of it and, in the absence of children, the *thavazhee* people might get one-half. In consideration, however, of the two circumstances mentioned above, I think that the question of making some provision for the mother may be considered if there is a formal amendment to that effect. As the amendment stands now, I do not think I can accept it. It is for the House to decide one way or the other. It would be going back from the existing practice, *i. e.*, reducing the share from 12/20 to 10/20, even in the case of *misradayam* Ezhavas. Therefore, as the amendment stands at present,—

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: May I ask Mr. Subba Aiyar whether the amendment of Mr. Paramesvaran in any case increases the customary share that now goes to the wife and children?

MR. V. SUBBA AIYAR: 12/20 is the customary share.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Is there any case where it is less than 12/20?

MR. V. SUBBA AIYAR: There is no case in which it is less than 12/20. Of course, it is also a very curious fact that, in the case of the *marumakkathayam* Ezhavas, who, at the present moment, do not get anything, all of them are entirely for giving the whole to the wife and children. In this state of affairs, I do not think I can accept Mr. Paramesvaran's amendment to fix it at one-half. I leave it to the House to decide.

DEPUTY PRESIDENT: So you oppose the amendment?

MR. V. SUBBA AIYAR: As it is, I oppose the amendment.

MR. A. GOVINDA MENON: I beg to oppose the amendment not only on behalf of my own self but also on behalf of the Ezhavas of North Travancore. Unfortunately, the Ezhava representatives here are not from that side. Most of the Ezhavas living in North Travancore are really *marumakkathayees*; but by various means they are trying to become *makkathayees*. In the courts of law, they sometimes

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find themselves *makkathayees* and sometimes *marumakkathayees*. It is a kind of transition stage in which no fixity of law has been assured, as the Law Member said just now, to the Ezhavas living in North Travancore. Really, the pure *makkathayam* system prevails in the community in those parts. They are, most of them, *marumakkathayees*. What they do to get over this difficulty is this. They get divided, sometimes after some litigations and some loss of money, and assign away their portions to the wife and children. Of course, there are many among those who thus get their shares of the family property, who help their separated brothers and sisters, if those stand in need of any help. Law cannot weaken the natural and moral obligations of man towards his near blood-relations nor can it enforce such obligations without, in most cases, infringing the freedom of the individual so necessary in these days for the evolution of a progressive community like the Ezhavas. I would, therefore, strongly oppose any amendment, not only Mr. Paramesvaran's, tending to lessen the value of the recommendations contained in the Select Committee's report.

MR. M. K. KHADIR PILLAI: I oppose the amendment.

MR. C. J. CURIEN: Sir, this is, no doubt, a social legislation. In legislating on social matters, I think it is incumbent on the Legislature to respect the opinion of the minority as well, whether there be a large majority or not. Mr. Subba Aiyar has stated that, of the witnesses examined by the committee, the majority is narrow. That being so, there can be, in my opinion, no doubt that deference should be given to the opinion of the minority in a case of social legislation like the one now under discussion. The custom now prevailing in that section of the Ezhava community called *misradayam* Ezhavas is that one-half of the property is given to the sons and the other half to the nephews. If the section do not wish to have a change in their customary law because they think that any change brought about will undermine their social fabric, I do not see the necessity for this House to interfere with their social custom. I, therefore, support Mr. Paramesvaran's amendment.

MR. C. P. KOCHUKUNJU PILLAI: I rise to support Mr. Paramesvaran's amendment. Mr. Subba Aiyar himself has admitted that there are two reasons at least, for which the amendment may be accepted. The two reasons he mentioned are these, *viz.*, the tendency of the Ezhavas, and the opinion of the majority of Ezhava witnesses which the Select Commiteee has recorded. Of course, he also said that, out of 260 members of the *misradayam* Ezhavas, 140 were in favour of the provision that the whole of the self-acquired property should go to the wife and children. Mr. Subba Aiyar also admitted that the majority had to be taken to be only a narrow majority and we have to see why the majority becomes a narrow one. From the petitions presented to the Council yesterday and the day before yesterday, it will be seen that some statements have been made by the *misradayam* Ezhava members from which it can be seen that the majority had to become narrow on account of certain reasons, objectionable reasons. The Law

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[Mr. C. P. Kochukunju Pillai.]

Committee, before they began their work, issued certain questions to which replies were invited in three different methods. The first was by taking evidence of witnesses in person, secondly, by inviting replies from individual members, and thirdly, by inviting joint replies or resolutions passed after discussion in the conferences of Ezhava members. The number of witnesses examined and the number of witnesses who spoke in favour of or against them have already been made mention of by Mr. Subba Aiyar. From the replies received from individual members and from the allegations in the petitions presented in this Council, I understand that, out of 126 replies received by the committee, only 58 spoke in favour of the section as it is, and there we have got a majority in favour of the amendment. Then again, with regard to the third method of getting replies, there are certain serious allegations against the Law Committee members.

MR. V. SUBBA AIYAR: I do not know whether all that is relevant.

DEPUTY PRESIDENT: I do not want to stop you; but these petitions have come at a very late stage.

MR. C. P. KOCHUKUNJU PILLAI: I think I am bound to state the reasons alleged.

DEPUTY PRESIDENT: I think you have stated the reasons when you presented the petitions.

MR. C. P. KOCHUKUNJU PILLAI: I do not make that in the nature of an allegation against the committee.

MR. N. KUMARAN: Has any one of the signatories signed before the member?

MR. C. P. KOCHUKUNJU PILLAI: Some have personally told me.

DEPUTY PRESIDENT: Say that there is a large section opposed to the adoption of the clause as settled in the Select Committee's report, and then proceed, instead of enquiring into the correctness of the allegations as regards the misconduct of the Law Committee.

MR. C. P. KOCHUKNJU PILLAI: The petitions and the resolutions received by the Law Committee have not been accepted because they doubted the genuineness of the signatures in the petitions. It is so said there. But, as a matter of fact, some of the important Ezhavas of my constituency personally told me that not only almost all of them, about 90 per cent. were in favour of the amendment put forward by Mr. Paramesvaran, but also that, when they sent their petitions signed by about 1,000 persons or so, one of the committee—

MR. A. HOOGEWERF: I beg to know whether this 90 per cent. went before the Law Committee?

MR. C. P. KOCHUKUNJU PILLAI: It is neither practicable nor necessary. Most of the members who were considered to be the

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leaders of the place took with them the petitions and offered themselves to be examined. The committee refused to examine them.

DEPUTY PRESIDENT: Was there any complaint about it?

MR. C. P. KOCHUKUNJU PILLAI: They did so on ascertaining from Government their views.

DEPUTY PRESIDENT: Did they make any complaint to the Government that their offer to tender evidence was rejected summarily? The records do not show any such complaint having been presented.

MR. C. P. KOCHUKUNJU PILLAI: I have not ascertained that.

DEPUTY PRESIDENT: The particular question I put to you is whether any complaint was made to Government against the Ezhava Committee summarily rejecting the evidence tendered by the Ezhavas of your constituency.

MR. C. P. KOCHUKUNJU PILLAI: I do not know. The committee also told them that one, two, or three might be examined and also promised them that they would take the views expressed by those examined to be the views of the other signatories as well. They told me also that the promise of the committee was not kept up. Anyhow, from the petitions presented here yesterday, it will be seen that there are more voters who belong to the *misradayam* system of inheritance than have actually been taken into account and it will be a surprise to see that only 265 of them could be got for examination. So, it is evident that the majority of the Ezhava members who follow the *misradayam* system were not examined and that their views were not recorded; and in the light of the facts that the majority is only a narrow one, and also that there is a strong difference of opinion as to the nature of the inheritance of the self-acquired property, I think the Council ought to give some consideration to the representation made by that set of people also.

Then again, the people following this *misradayam* system are also of opinion that they have been observing this *misradayam* system of inheritance from time immemorial and that this system has been serving satisfactorily; so much so, that the earning member of a particular *tarwad* has the full co-operation of the *anandaravans*, the children and the wife, so that the benefit of joint labour must at least go to the *anandaravans* also. To some extent, I believe, they are reasonable in that aspect of the matter.

MR. K. P. RAMAN PILLAI: May I know whether the member is voicing his opinion or the opinion of his constituency?

DEPUTY PRESIDENT: That does not arise here. He is expressing what he thinks.

MR. C. P. KOCHUKUNJU PILLAI: I am not going to answer that question.

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[Mr. A. Hoogewerf.]

MR. K. P. RAMAN PILLAI: I wish to know whether he would advocate the same thing for his own community.

DEPUTY PRESIDENT: That question does not arise here. We are now discussing the fortunes of the Ezhava community. He is just stating what, according to him, is a fair and equitable distribution of the estate of an intestate. You cannot pin him down to any particular position.

MR. C. P. KOCHUKUNJU PILLAI: As to the question of tendency, I think there also we are to go by the tendency of the majority of the Ezhavas.

MR. V. SUBBA AIYAR: That is what has been done.

MR. C. P. KOCHUKUNJU PILLAI: Then, as a matter of fact, the views of the majority of the Ezhavas in my constituency are in favour of the amendment. I, therefore, place that fact before the Council for its acceptance.

MR. A. HOOGEWERF: I did not in the least expect that, at this time of the day, there would be any necessity for advocating the cause of the wife and children in the matter of the inheritance of the self-acquired property of the husband or father. In any other country in the world, it is a foregone conclusion. But in our interesting little State where the relics of ancient custom cling with a tenacity unknown elsewhere, notwithstanding the fact that society has become overgrown, the legislature has yet to make numerous alterations suitable to the times. I do not deny that those ancient customs, however unreasonable and unsuitable, are of absorbing interest to the historian and the antiquarian. But we should take care that the methods we adopt are influenced more by the well-being of the community concerned, than by purely antiquarian interest. It may be picturesque to see a community diversified by the observance of customs suitable to a by-gone age. But the imagination of the legislator should not be led away by the beauty of that picturesqueness. We should be led more by prosaic considerations of utility and the wish of the enlightened section of the communities affected in making changes in their laws. When you have outgrown a suit of clothes which suited you in one age, the best course is to discard it and order a new suit made to suit your elongated stature and broadened shoulders to avoid the unseemly shower of buttons like Sweet Pigotty's in our favourite Dickens's David Copperfield. The overgrown Ezhava community wants to cast off its too short and too tight and unfitting *misradayam* clothes. Should we or should we not help them in their sartorial struggle? I do not think that the question admits of any other answer than that we *should* with all our might. My learned friend, the member for Parur, observed the day before yesterday that the *marumakkathayam* Ezhavas of North Travancore, whom he presumably knows better than any one else in this House, are *marumakkathayees* in name and *makkathayees* in practice. It is the duty of this House to permit the community to have a law which will suit their inclinations and tendencies. A few dissentient

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voices here and there, one or two discordant notes, a little perversion of human nature,—these are matters unavoidable even in such a united community as the Ezhavas. They cannot detract from the consensus of public opinion which is in keeping with the progress of the community. Old gentlemen, like the mover and myself, can well afford to stand aloof from our families and *tarwads* and indulge in the luxury of theoretical speculation on problems of absorbing practical interest to others. But, in social legislation, it is not such speculation, but the feelings and aspirations of the full-blooded youths of the community who are daily engaged in making new acquisitions that should form our guide. We are not here only to record customs however unreasonable or unsuitable. We have demonstrated this yesterday by prohibiting polygamy in the community and rejecting, the day before, Mr. Paramesvaran's amendment for sanctioning the forfeiture of the rights of Christian converts in their original *tarwads*. It is interesting to note here that the House voted in a body against that motion, including Mr. Paramesvaran himself. In strongly opposing Mr. Paramesvaran's motion for half and half devolution, I am not without hope that Mr. Paramesvaran himself may join in voting against his own motion, as he can now be very confident that conversion to my views will not entail any forfeiture of his rights.

MR. M. N. PILLAI: Sir, I strongly support the amendment of Mr. Paramesvaran. We are under obligation to our *marumakkathayam* relations such as sisters, brothers and others. The education of many of the *marumakkathayees* was obtained with the willing help of brothers and sisters. It will therefore be ungrateful, nay inequitable, if, after the death of such a person, his mother, brothers, sisters and other *marumkkathayam* relations are excluded from succession. A person who is born and brought up in the *makkathayam* system may not be able to appreciate the fraternal affection, but a member of a *marumakkathayan* community, such as the one in question, knows full well how sincere and divine is the devotion of a brother or sister, and how in times of adversity when every hope is lost and the friends of prosperity desert he can look up to the kind and affectionate help of his brothers and sisters. Therefore, it is no wonder that a large and influential section of Ezhavas stands for a system which, while it cares for the wife and children does not neglect the mother, brother, sister and other *marumakkathayam* relations. It stands to reason and equity that one's own mother, brother and sister are not ignored when intestate succession comes up. Of course, one's obligations and responsibilities towards one's wife and children should be adequately discharged. But that should not necessitate the absolute disregard of the claims of *marumakkathayam* relations. A provision, as suggested by Mr. Paramesvaran and as embodied in the existing Nair Regulation, will adequately satisfy these different obligations. There is the testamentary power allowed by the bill which could be availed of for satisfying any peculiar individual inclinations. But when it comes to a question of intestate succession of a *marumakkathayee* the interest of *marumakkathayam* heirs as well as *makkathayam*

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[Mr. K. C. Raja Raja Varma.]

heirs should be adequately secured. But the provision ignores this aspect. I therefore support the amendment.

MR. M. R. MADHAVA VARIAR: I oppose Mr. Paramesvaran's amendment. As far as I know, the general tendency among the Ezhavas,—

MR. T. K. VELU PILLAI: Louder, please.

MR. M. R. MADHAVA VARIAR: I oppose Mr. Paramesvaran's amendment. As far as I know, the general tendency among the Ezhavas is to become *makkathayees*, *i. e.*, to give the whole of their self-acquired and separate property to their wives and children. But Mr. Paramesvaran urges this House to accept his amendment on the ground that the majority of the Ezhavas are *misradayees* and they want only *misradayam* and not the system adumbrated in the section as provided for by the Select Committee. The majority who hold different views can be ascertained only by a referendum and I do not think it expedient to pass any law by this Council after taking a referendum. No law can be conveniently passed with regard to social matters after taking the consensus of opinion of the majority of major members of a particular community. Mr. Paramesvaran urged that he has certain petitions signed by the majority of voters in a taluk; but I may assure him that, if I, or somebody else, were allowed to get petitions signed, I think I could get petitions signed by the majority of voters *in favour of* this section, because people who sign their petitions do not generally know the purport of the petitions; and I know this from the experience of petitions being signed for other purposes. So, merely from the majority of signatures in certain petitions, we cannot infer that the majority of the Ezhavas in certain taluks are in favour of *misradayam*. Even those who were in favour of *misradayam* have now changed their opinion and have now advocated *makkathayam*. So, we do not know the majority. As far as we know the majority, we know it from the report of the Law Committee. They have examined about 800 and odd witnesses; and from their statements we come to the conclusion that the opinion of the majority is that the whole of the self-acquired or separate property of the intestate must be left to the wife and children. So, I oppose Mr. Paramesvaran's amendment.

MR. K. C. RAJA RAJA VARMA: I rise to support Mr. Paramesvaran's amendment. In matters of social legislation, it is one thing to aim at an ideal and it is another thing to take up the conditions obtaining at a particular moment and concentrate our attention upon those conditions existing at the time of legislation. We must not be led far away from the living facts by the ideals which the community affected by the legislation may attain to at some future date. From the figures given out to this House by the Law Member, we see that a large section of the community follows the *misradayam* system of inheritance and in that section there is a considerable body of opinion which does not like

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the principle enunciated in this clause. There is a considerable section among the *misradayees* who do not wish to see that the whole of their self-acquisition goes to the wife and children; so that it would be more proper for the Legislature at least to safeguard their interests and prejudices. I would make a suggestion for the consideration of the House that, if the other section, who follow pure *marumakkathayam*, would like to have the whole of their self-acquisition given to the wife and children, an exception might be made in the case of *misradayee* people who do not like the whole of their self-acquisition to be given to the wife and children. From the manner in which this Council has been flooded by petitions, I think that the *misradayam* people do want their existing system to be recognised in the statute and not to be taken away all on a sudden by this section. Therefore, I would support Mr. Paramesvaran's amendment.

As regards the *marumakkathayam* section of the people, I do not think that it is wise for the Legislature to abolish all on a sudden the *marumakkathayam* law, and make it *makkathayam* law, even though the tendencies of modern times and the progressive ideas permeating the *marumakkathayam* community itself are towards *makkathayam*. I think it would be better for the legislature to legislate for one-half of the self-acquisition now, and leave the community to progress further, just as it dealt with the Nair community. Therefore, I support Mr. Paramesvaran's amendment that only a half should be given to the wife and children

MR. T. K. VELU PILLAI: If the object of this piece of legislation is to give a comprehensive law to all the Ezhavas in Travancore, I would not have thought of making any speech on this section; but, I find from the preamble and succeeding clauses that this affects only a particular class of Ezhavas. The Ezhavas have been making earnest endeavours to improve their condition and they are becoming very prosperous. I have myself seen in public meetings hundreds and thousands of people assembled together, actuated by the one ideal of social solidarity and progress; and they do this in spite of the fact that some people follow *marumakkathayam*, others follow *makkathayam* and some others follow the mixed system. Section 15 (*a*) is, to my mind, the most important section in this bill, in the sense that the most intense controversy arises out of that section. The report of the Marumakkathayam Committee—

MR. K. P. RAMAN PILLAI: Ezhava Committee?

MR. T. K VELU PILLAI: The report of the *Marumakkathayam* Committee places this matter in a very difficult position, as I observed on a previous occasion. In this connection, I must say that Mr. Raman Pillai was not quite right in trying to correct me, because at the time of the Ezhava Law Committee the problem dwindled into a lesser sphere. The report of the Ezhava Law Committee is a very ambiguous document so far as I am concerned. Some of my friends here have threshed out the details and have placed divergent views before

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[Mr. T. K. Velu Pillai.]

this House. I find certain facts which are very favourable to the *makkathayam* school, while I find others equally in favour of the mixed school. In page 15 of the Ezhava Law Committee's report I find a number of gentlemen mentioned, who are in favour of *makkathayam*. Mr. Govindan, Mr. Kumaran and others, respected members of the community, are in favour of *makkathayam*.

DEPUTY PRESIDENT: How do you define *makkathayam* so far as this particular section is concerned?

Mr. T. K. VELU PILLAI: So far as the Ezhavas are concerned, the dispute is between *makkathayam* and *misradayam*. The *makkathayees* want the whole of the self-acquisition to go to the wife and children. The *misradayees* want only one-half to go to them. It is in that sense that I am using the terms and that is the ordinary accepted sense.

In paragraph 39 I find other names also, for which I have equal regard. Among them I find the name of my friend, Mr. C. O. Madhavan, who is a District Munsiff.

MR. M. GOVINDAN: He has published a letter in a Malayalam paper retracting from his position.

MR. T. K. VELU PILLAI: I thank Mr. Govindan for the information. That paper has not been placed in my hands.

One apparent difficulty is that while the *marumakkathayees* whose properties do not go to their wife and children under the existing law, are in favour of *makkathayam*, the *misradayam* people are in favour of giving a half only to the wife and children. I think it is due to a simple circumstance. If we want to prevent the wholesale bursting of a tank and the breaking of its banks, we generally provide a few openings. If we want to prevent underground springs from throwing down a wall, we generally provide loop-holes. The *misradayam* people are already giving a portion of their wealth to their wives and children. So, they do not feel so much difficulty as the *marumakkathayees*. The *marumakkathayees* find that under the existing law they are not able to give anything to those who are near and dear to them. They are, therefore, furious against the existing system of law. That is the reason why all *marumakkathayees* are in favour of complete *makkathayam* while *misradayees* are satisfied with the existing system and not in favour of out and out *makkathayam*. The report, Sir, has been a one-sided one. I can understand a committee taking such facts as are within their reach. Unfortunately, we find here the following remark made by the committee. "Every *makkathayam* Ezhava feels thoroughly satisfied with his rule of succession and there is hardly any family dispute among them." As a lawyer, I find it very difficult to accept this statement. If there are no family disputes in a *makkathayam* family, there will not be any litigation anywhere outside the Kerala country. But we know that is not the fact. If there are any family disputes in

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a *marumakkathayam* family it is not due to *marumakkathayam* alone, but to several other circumstances that may not have been placed before the committee; so that this kind of special pleading has, as a matter of fact, prejudiced the case.

Another consideration is that which relates to the performance of the *sraddha*.

DEPUTY PRESIDENT: Is it very material to go into that part of the question?

MR. T. K. VELU PILLAI: Yes. This is what the Ezhava Law Committee says:

"The father acts as the guardian of his children and educates them. He feels that he lives and works for his wife and children, and the latter, whether they contribute or not to his self-acquisition, are in the generality of cases made to expect the fruits of his labour. When he dies, children observe pollution and perform his funeral obsequies and *sraddha*. Every prudent father, conscious of the disability placed by law in the way of children's inheritance, takes care to settle his self-acquisition on his wife and children by some means or other."

Regarding the performance of the *srāddha*, the committee does not say that the *anandaravars* do not perform the *sraddha*. They say that the sons perform it. I claim that the nephews also perform *sraddha*.

DEPUTY PRESIDENT: It is not anybody's contention that the capacity of sons depends upon the funeral obsequies so far as the Ezhava community is concerned. The claim for a share in one's father's estate is not rested upon the children performing the funeral rites of the father.

MR. T. K. VELU PILLAI: That is not an absolute statement. I am entitled to make observations, because the Ezhava Law Committee has attached some weight to the performance of the *sraddha*. It is because the *sraddha* is considered to be an important religious and secular matter that the children also are performing it. Therefore, Sir, in the consideration of this question of inheritance, the performance of the *sraddha* has got its own importance. Mark again the words: "Every prudent father conscious of the disability placed by law in the way of children's inheritance takes care to settle his self-acquisition on his wife and children by some means or other;" so that nobody has been prejudiced by this, although there is no law prescribing devolution of property on wife and children alone. Even this bill does not make *makkathayam* absolute nor does it discourage *marumakkathayam* absolutely. Section 15 is the one section on which this discussion centres. The very next section, *viz.*, section 16, lays down that "when an Ezhava dies leaving no children but only a widow and *marumakkathayam* heirs, half goes to the widow and the other half to the *marumakkathayam* heirs." This bill is not in favour of complete *makkathayam*. So even the alleged reason fails. There are other difficulties also which present themselves to my mind. In the Law Committee's report, page 16, it is said: "Our firm conviction is that the conditions have become ripe for the full recognition of the children's claim to the father's self-acquisition and that anything less is apt to provoke dissatisfaction. The proposal to invest the

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children with preferential right to the father's self-acquisition will effectively mitigate the bitterness and remove the ground of a crop of litigation between them and the *seshakars* when an Ezhava dies intestate. We would however qualify the proposal with a condition regarding the date of its effect. Under the law as now administered, the *seshakaran* expects to inherit the whole in one section and a part in another section of the community, of the self-acquisition which may happen to be left undisposed of by a deceased Ezhava male. Any scheme of legislation on inheritance should, as far as possible, avoid disappointment of expectations". We know the history of section 26 of the Nair Regulation. Although that section laid down in clear and unambiguous language that "the regulation shall not confer any rights on the parties to, or offspring of, a marriage dissolved before it comes into force", the High Court held that section 26 did not restrict the operation of section 17. It may be in the fitness of things, if the very same High Court presided over by eminent Judges—

MR. V. SUBBA AIYAR: There is a conflict of rulings in regard to that.

MR. T. K. VELU PILLAI: Conflicts of High Court rulings are very common in Travancore.

DEPUTY PRESIDENT: Everywhere.

MR. T. K. VELU PILLAI: When I said that conflicts arise in Travancore, does it mean that there are no conflicts elsewhere?

I do not want that the Ezhava community should suffer by the conflict in the law which is the creation of the Judges who preside in the High Court. That is one thing. Then again, Sir, what I meant to impress upon this Council is that section 3 of this bill is not enough to safeguard the interests of the Ezhavas. The Ezhava society is in a sort of flux as far as *misradayees* are concerned. People base their views on the so-called public opinion. I think sometimes the expression is very elastic. In this connection, I am tempted to read a passage from Bryce's "*Modern Democracy*" where the learned author says:

"What is public opinion? The term is commonly used to denote the aggregate of the views men hold regarding matters that affect or interest the community. Thus understood, it is a congeries of all sorts of discrepant notions, beliefs, fancies, prejudicies, amorphous, varying from day to day and week to week."

So, Sir, the mere mention of the words 'public opinion' does not convey a full meaning to my mind. If there is a public opinion in favour of *makkathayam*, there is an equally strong public opinion in favour of the *misradayam* system of inheritance. Certain petitions have been placed before this Council; and when my friend Mr. Kochukunju Pillai was asked by Mr. Kumaran whether any petition was signed in his presence,—

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DEPUTY PRESIDENT: At any rate you may take it that there is a difference of opinion in the community.

MR. T. K. VELU PILLAI: Mr. Kochukunju Pillai answered that it contained signatures of some friends whom he knew.

DEPUTY PRESIDENT: You may take it that there is very strong difference of opinion in the community.

MR. T. K. VELU PILLAI: Yes Sir, there is very strong difference of opinion.

MR. A. HOOGEWERF: Mr. Velu Pillai quoted Bryce. Is there any recognised public opinion in these petitions presented?

MR. T. K. VELU PILLAI: I do not quite grasp Mr. Hoogewerf's question.

DEPUTY PRESIDENT: Does not Mr. Velu Pillai, who quoted Bryce, recognise public opinion presented in these petitions?

MR. T. K. VELU PILLAI: I will give this book, so that Mr. Hoogewerf may go through it at his leisure. (*Laughter.*)

MR. A. HOOGEWERF: I have no leisure.

DEPUTY PRESIDENT: He only wanted you to recognise that you also respected public opinion as presented in the shape of petitions.

MR. T. K. VELU PILLAI: I submit that it does not arise here. But I may say that I do respect public opinion.

MR. N. KUMARAN: I should like to know whether he is arguing against his own opinion.

DEPUTY PRESIDENT: We are supposed to give expression to our personal conviction in matters coming before the Legislature, though, no doubt, personal conviction may be based on evidence given by parties who are thoroughly conversant with the real situation.

MR. T. K. VELU PILLAI: I quite understand the distinction. In this connection, I recollect what Burke is reported to have said regarding the true functions of a representative. That great political philosopher said that constituents were entitled not merely to the industry of a representative but also to his judgment. I quite understood that when I said that an uncertain public opinion is not the safest test; and when my friend put the question whether I was speaking against my own opinion, I thought I need not answer him because it appeared to be so trivial that it need not be answered.

That is my view regarding this difficult question in the Ezhava Bill. But I am in a position from which I cannot render any help to one party or the other. That is my sore misfortune, because the amendment is worded in such a manner that all the arguments that I can urge against this section are applicable to the amendment also.

MR. K. P. RAMAN PILLAI: Hear, hear.

MR. T. K. VELU PILLAI: This amendment applies to all Ezhavas without reference to *makkathayam* or *marumakkathayam*; so that, if we try not to break the sentiments and aspirations of

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misradayam Ezhavas—that is what my friend wants—the law followed by *misradayam* Ezhavas will have to be forced upon other people while the section provides that all the self-acquisitions should go to the wife and children. I have found *marumakkathayam* families where, according to the evidence recorded by the committee, almost all are in favour of the whole property going to the wife and children. When that is so, I think it is not desirable that a law which they do not want should be forced upon them; so that the point raised by Mr. Paramesvaran against the section is not legitimate, seeing that Mr. Paramesvaran does not recognise the rights of other sections of the people.

DEPUTY PRESIDENT: So, what is your position?

MR. T. K. VELU PILLAI: I think that I have made myself clear. Any man who believes in this section finds himself in a position of difficulty. I would, therefore, suggest to Mr. Paramesvaran and Mr. Subba Aiyar to arrange between themselves and come to a proper conclusion making it permissive for particular communities to have the law that they want. While section 15 is casting an unwelcome obligation on the *misradayees*, Mr. Paramesvaran's amendment is casting an inconvenient obligation on the *marumakkathayees*. It is a question of logic as well as of law.

MR. A. HOOGEWERF: Am I to understand that Mr. Velu Pillai does not support that party?

MR. T. K. VELU PILLAI: I am here not to support any particular party, but to give out what I consider to be the best view. I would only request Mr. Paramesvaran to extend the principle to the other Ezhavas who should not be forced to follow a law which they do not want.

DEPUTY PRESIDENT: It is open to you, Mr. Velu Pillai, to move an amendment independently of Mr. Paramesvaran coming round to your view. There is much in the position you have developed to put in an amendment yourself.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Is it open to a member to put in an amendment hereafter, of which no notice has been given?

DEPUTY PRESIDENT: If it is in the interest of the community concerned, I have no objection to allow it. It is quite welcome.

MR. M. GOVINDAN: There is already an amendment to clause 3 which we are holding over to the end.

DEPUTY PRESIDENT: While the *misradayam* people may be allowed to retain the law as it is, the *marumakkathayam* people also may be permitted to indulge in the luxury of giving the whole of their self-acquisition to the wife and children. If the majority of the House thinks that this will be a satisfactory solution, I shall not put any technical objection in the way of your moving an amendment.

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RAO BAHADUR K. V. RANGASWAMI AIYANGAR: That decision as to whether—

MR. T. K. VELU PILLAI: Shall I take it that Mr. Rangaswami Aiyangar is going to move an amendment? In that case, I do not want to say anything further.

DEPUTY PRESIDENT: I think so.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Before I proceed to make any observations with regard to the question before the House, I would request the President to rule that the floor of the House is reserved for the members of the House and is not freely available to others, as peons, clerks, members of the offices, etc., who now come in and go out of the House freely. It is difficult either to listen to members speaking on the other side of the House, or to understand what is going on and pay proper attention to it with this disturbance. The passing in and out of so many people causes constant interruption. I have suffered a great deal more in this respect than many other members owing to the position of my seat, and I am obliged to ask your protection.

DEPUTY PRESIDENT: I have myself noticed it, Mr. Rangaswami Aiyangar, and seen that you have been more inconvenienced than others. I see it is a legitimate complaint. I shall see that your wishes are respected in this House.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Well, Sir, to go back to the very important question that is engaging the attention of the Council to-day, I may mention to the Council in confidence that I had been under the impression that, so far as the official members were concerned, the heavy responsibility for deciding the question would not have been theirs, but would have devolved on the Government. Unfortunately for one in my position, the necessity for a personal decision *has* risen, as the Government have taken the very correct position of neutrality in this matter and left it to the discretion of every member—official or non-official—to speak and vote on this question as he considers proper. This has put upon me, as on every other official, the duty of finding the rights and wrongs on each side in regard to this very important question. I have tried to understand the opposed positions and their respective justifications, and have been balancing the arguments of the gentlemen who are ranged on the two opposite sides, and the reasons adduced for the wholesale conversion of all self-acquired property into something like a *makkathayam* inheritance and for the retention of what, for want of a better expression, may be called the *misradaya* method of dividing such self-acquired property. The position in which, as the result of reflection, I find myself is somewhat like this. And for the benefit of any who might share my ignorance, and for the purpose of receiving any correction that might become necessary in my statement of the matter, I would state the opposed position first, as follows.

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As far as this piece of legislation is concerned, it applies not to the entire Ezhava community but only to a section of it.

DEPUTY PRESIDENT: The entire section of the Ezhava community that follow the *marumakkathayam* law is brought under the purview of this law.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: No, Sir. Those who follow the *misradayam* law are also brought within its scope. I understand, at the same time, that there are certain branches of the Ezhavas, following the *makkathayam* system, and others that have been converted to other religions, which are at present *excluded* from the benefit of this legislation. Mr. Velu Pillai has already pointed out that this is not a measure which is going to embrace the *entire* community which might be called the Ezhava community at present, or which formed the Ezhava community, one and undivided.

My second point is in regard to the members of the community who are going to be benefited by this measure. It has been demonstrated in the course of the debate that there has not been unanimity among the members of the committee in regard to the need for the present proposal. It has indeed been argued that there is a preponderant majority in favour of one side or the other in this controversy. Statements have been made, challenging the conclusions of the Ezhava Law Committee, and even its procedure and methods. So far as my argument goes, it is unaffected by the correctness or otherwise of such allegations. My position is just the same as that made clear sometime ago from the Chair itself, *viz.*, that there *is* considerable divergence of opinion between two sections of the Ezhava community, which are likely to be affected by the passing of this law, in regard to the question of inheriting self-acquired property. A section wants the law, or what is approximately the law, followed at present by its own members, to be applied to the other sections of the community, and, so far as I have been able to gather, this section is not, in any sense, the numerically larger section affected. On the other hand, there is another section, which might be regarded, from the nature of its proposals, as the progressive section, which advocates complete individualisation of property, which wants all the self-acquired property to be not only disposable by will, but to decend, in its entirety, to the wife and children, in cases of intestate succession, and no part of the property to go to the *tarwad*.

These are the opposed views. From the figures supplied by Mr. Subba Aiyar, it is clear that, even among the *marumakkathayam* Ezhavas, the bulk of whom are supposed to stand behind Section 15, there is no unanimity in supporting this section. There is a reasonably large section of the *marumakkathayam* section, which constitute not a majority, it is true, but a respectable minority, which is against this section 15. Among the *misradaya* Ezhavas also very nearly half the number of witnesses were against the proposal to which Mr. Parameswaran wants to commit this Council as against section 15, on the

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ground that this proposal is entirely in accord with his interpretation of the prevalent custom of the Ezhava community following the *misra-dayam* system of inheritance. We are indebted to the learned Law Member for an important correction of this assertion. He has shown that it is not one-half of the property that the *misradayee* people are now entitled to inherit as stated by Mr. Paramesvaran, but as much as 12/20 of the property, and that consequently 10/20 which is indicated in Mr. Paramesvaran's amendment, as the share which should go to the wife and children, is less than what they are getting now in the community. So, we are asked to choose between two alternatives, neither of which is in accord either with existing custom or with the unanimous wishes of the section of the Ezhavas who are supposed to press them. We have reformers on both sides. There is Mr. Paramesvaran whose amendment, despite his professions, will *reduce* the portion which the wife and children are now entitled to receive under the existing law of his own section of the community. On the other hand, there are others who stand by section 15 in its unamended form, and who claim that the whole of the self-acquisition should go to the wife and children—not 12/20 as at present, but 20/20 of the property. There is a quantum of *reform* in each case; in one case, a dimunition, and, in another, an increase of the share of the wife and the children. Till I heard Mr. Subba Aiyar to-day, I was under the impression that Mr. Paramesvaran's recommendation was absolutely in harmony with the actual practice of the *misradaya* section. I have now found he is also for changing the custom. This is the difficulty which Mr. T. K. Velu Pillai has referred to. Mr. Velu Pillai confesses that it is impossible for him to get out of this difficulty, as both the sections are anxious to make alterations of the law, while he himself feels that there may be just ground for allowing a certain amount of latitude to each of the sections of the community to follow its own desire, or its traditional practices without thrusting reforms down the throats of a large number of unwilling people, whether they constitute a majority or minority. I realise the position indicated by Mr. Velu Pillai, but do not feel his difficulty as I can conceive a of more equitable solution than those suggested by either Mr. Paramesvaran or the supporters of Section 15. I shall now proceed to explain my suggestion.

The learned Law Member, in putting forward the case for Mr. Paramesvaran's plea to allow the existing custom to continue, mentioned two grounds only. There is a third ground and, if I may be permitted to say so, a higher ground on which Mr. Paramesvaran's prayer should be granted. In matters of social legislation, the line that ought to be followed, not only in equity but as a matter of wise statesmanship, is as follows. First, codify the existing practices and then allow the community to make its wishes felt and effect modifications in the codified law, when and as it desires. If the entire Ezhava community, which now has no uniform rule in this matter, is to adopt a rule such as that self-acquired property should be divided, in case of intestate succession, so as to have about one-half go to the wife and children, and the rest to

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that *tarwad*, there would be a violent obliteration of the existing distinctions between the *marumakkathayan* and the *misradayan* systems in regard to this matter. The proper line to take, in a case like this, I submit, is to ascertain the customs, and to record them, in the first instance, in a legislative enactment, and then to allow such sections of the community as desire changes to introduce permissive legislation, permitting an addition or deduction of the quantum of the self-acquired property that goes to the wife and children or to the *tarwad*.

May I submit to the House that a heavy responsibility lies on it, since the House is composed of a very large number of persons, who do not belong to the community, who are not directly affected by it, and who may therefore be charged with indifference to the pressure of the sections of the community whatever decision is arrived at by the Council?

MR. A. HOOGEWERF: Sir, am I to understand that Professor Rangaswami Aiyangar is trying to make out that the present bill is encroaching upon the present law and practice of the *marumakkathayee*?

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Sir, I think I have made myself sufficiently clear. I thought it was quite evident that the present Bill is confessedly making an alteration upon the existing customary law. Mr. Govindan, Mr. Paramesvaran and Mr. Subba Aiyar may correct me, if I am not warranted in making this assertion. In the light of Mr. Subba Aiyar's explanation, it will also be evident that both Mr. Paramesvaran's amendment and the section of the Bill will make alterations in the existing customary law of the community as administered by our courts. I therefore repeat that, in a matter like this, the proper course would have been, first of all, to embody in a statutory measure the existing customary rules of the community as the courts administer them and to subsequently alter or amend them either in the interests of the whole community or in that of a part of it. I heard in the course of the debate a certain number of members argue that 'the majority is in favour of this proposal', 'the bulk of the community is in favour of this opinion', or 'the great majority of the community is in favour of the other matter' and so forth. To my mind, Sir, an argument of this type cannot have any just weight. In a matter of social legislation, it should not be a question of majority or minority merely. The rights of minorities are as sacred, and are as much entitled to be protected, as those of majorities. The time might come when in this House itself the preponderating opinion would be that of the minority of to-day. It will therefore be undesirable that, in circumstances like this, a legislative measure should be adopted, by which the opinion of a preponderant majority is imposed upon a large number of persons, who form an influential minority and are honestly advocating the retention of ancient usages, which are not contrary to public interest or to public morals. Under these conditions, I would plead for sufficient

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liberty to the minority to adhere to its usages, and for protection to the people who desire to follow the rules which all along have been applied to their section. They should be so protected till the time comes when they find it necessary to change such customs and usages and ask for the change, as a voluntary act on the part of the persons concerned, to have those clauses amended. There should not be any attempt on the part of the Council to force upon unwilling people a certain quantum of reform in laws of inheritance, simply because a majority of the community desires it, any more than because a majority of this Council finds it generally desirable.

MR. A. HOOGEWERF: I beg to know whether there has not been such a voluntary move on the part of the community concerned.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: It is not necessary for me, Sir, to answer this question. The move must come after codification of usages, not before such codification.

It seems to me that, in this very important matter, I should not be discharging my duty aright, if, as a member of this House, I did not lift my voice in protest against any attempt to encroach upon the rights of minorities, on the ground that the will of the majority should always prevail. On this ground, which I regard as a very high ground, and which my friend Mr. Subba Aiyar has admitted to be a perfectly valid ground, I plead for some kind of arrangement by which it may be possible for the *misradaya* section of the Ezhavas, or such of them as are anxious to follow the existing usage, to continue to do so, and, at the same time, to give the fullest liberty to every other person who desires to be benefited by section 15, as it stands, to do so. I make the suggestion, without in any manner trying to balance the abstract advantages and disadvantages of the rival measures, considered by themselves. I am not called upon to deal with that question. One section wants a measure and the other section another measure. I propose that we should find some *via media* by which both the sections will have the liberty to follow their own lines. When I discussed this matter before, I imagined that there were two alternative possibilities in regard to Mr. Paramesvaran's amendment. One was to recognise that, even if it was not ideal, it at least approximated to a statement of the position of the *misradayees* since it wants 10/20 to be given to the wife and children, whereas the usage gives 12/20. Secondly, I saw that there is a provision in section 20, which might be taken up by the Council later on, which provides for the disposal of all self-acquired property, in the most absolute manner, by the execution of a will. I fancied that, when we took it up, we might correct any defect in the wording of Mr. Paramesvaran's amendment, which arises from its incorrect representation of actual practice in his community. For, if it be desirable that the share of the wife and children should be 12/20, instead of 10/20 as suggested by Mr. P. Paramesvaran, the additional 2/20 might always be given by a will. For, manifestly, if a person wishes to give away his entire self-acquisitions by will, he may do so; and he may give it too by gift *inter-vivos*.

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[Rao Bahadur K. V. Rangaswami Aiyangar.]

DEPUTY PRESIDENT: Or, it is open to him to disinherit the wife and children.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Quite so, Sir. Only it will not be open to him to do so, if he dies intestate. By accepting Mr. Paramesvaran's amendment, his liberty to disinherit by will is not curtailed. It has been urged that the objection to section 15 is nothing more than a sentimental objection. I would only say in reply that even sentiment should be respected in matters of legislation. I do not think it will be consistent with our position, as a dispassionate body, if we should make laws of inheritance, and force them upon unwilling people, as a reform which we think to be right and necessary, but they do not. Under these circumstances, I suggest to the House that the omission which has occurred might be corrected by an amendment, which, by leave of the Chair, I may suggest, and which would allow the *misradaya* section of the community or any other section of the community the benefit of its existing customs. I request the learned Law Member to put my amendment in proper legal form. In moving that amendment, I only wish to make a passing reference to a difficulty just pointed out to me by Mr. Govindan. If a man wishes to follow *misradayam* or any other custom, he should be allowed to do so. The question of self-acquired property does not arise in this connection. If a man says "I want to follow a wider rule, and not a narrower rule", he should also have the facility to do so. It is for this that I suggest a public declaration of the law he elects to adopt. With these words, and with the permission of the Chair, I move this amendment.

DEPUTY PRESIDENT: May I take down your amendment?

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: I would like to have the benefit of the advice of Mr. Subba Aiyar in regard to the wording.

DEPUTY PRESIDENT: You may put it in a general form, so that I may see if the idea could be accepted. It may be put in the proper shape by Mr. Subba Aiyar afterwards.

MR. A. HOOGEWERF: I beg to know whether Mr. Paramesvaran is withdrawing his amendment.

DEPUTY PRESIDENT: No. Mr. Rangasvami Aiyangar is moving another amendment. He did not give notice of this amendment, but I am allowing him to move it, if that would help the House.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: The amendment that I would introduce is in the form of this proviso:

"Provided that nothing in this section shall affect the existing practice of such of the members of the *misradayam* community as desire to follow the existing rules of inheritance."

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DEPUTY PRESIDENT: The statute cannot prepare an exhaustive statement of people who follow the *misradayam* system. However, I allow the amendment.

MR. M. N. PILLAI: I second the amendment.

DEPUTY PRESIDENT: The discussion may now proceed on *all* the amendments.

MR. N. KUMARAN: How do people signify their choice?

MR. V. SUBBA AIYAR: There is no difficulty. If the amendment is accepted, I do not think it will be difficult to have a clause to prescribe a form by which this can be done. The only question is whether the amendment is to be accepted.

MR. T. K. VELU PILLAI: There is one difficulty. The wording, as it is, might furnish the other side with arguments, which might demolish the amendment.

DEPUTY PRESIDENT: The amendment may be put in order. In the meantime, the discussion may proceed.

MR. M. GOVINDAN: I think there is some misconception with regard to the wish of the *misradayees*. It so happened that one *misradayam* member of the House presented certain petitions and brought forward a proposal as if he represented the wish of the entire *misradayam* community. Let it be remembered that he is not the only *misradayee* member in this House. There are two other *misradayee* members here. In fact in this House the only section of the community represented is the *misradayam* section and the majority in this House is as two is to one, two for the devolution of the whole to the wife and children and only one for the devolution of a half. That fact must be kept clearly in view.

MR JOSEPH PANJIKARAN: Are we to suppose that the same proportion exists outside the Council also?

MR. M. GOVINDAN: I am coming to it. After all, neither the number of witnesses nor the number of petitions nor the number of members in this House is to conclude the matter; but it is the wish of the people.

There are two considerations in coming to a conclusion in a matter of social legislation. It must be acceptable to the people concerned, and it must be advantageous to them. Now let us see whether in this matter it is acceptable to the people. In this connection, the standard of *unanimity* which Mr. Rangaswami Aiyangar sets before us is too high for any social legislation. Absolute unanimity in a matter of social legislation is altogether unattainable. If that were the standard, Gour's Bill would not have become law and the Nair Regulation would not have been in the Statute Book.

MR. T. K. VELU PILLAI: I wish to know whether Gour's Bill was a permissive law or an obligatory law.

DEPUTY PRESIDENT: What he wants to impress upon the Council is that very few oppose their proportion and that Gour's Bill was opposed even in the form in which it was passed.

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[Mr. M. Govindan.]

MR. M. GOVINDAN: The intensity of the opposition here is no safe index to the number of persons behind, holding the same views. It is enough if there is one member to oppose, to make the opposition hot. But the question is whether the opposition is of such volume as can be treated as one proceeding from the community concerned. When the Ezhava Law Committee was constituted, there were three *misradayam* members appointed for the committee for two lakhs of people who followed *misradayam*, and only three for the other four lakhs. One happened to be the Secretary of the S. N. D. P. Yogam, the most influential *yogam* of the community, having a preponderating number of *misradayam* Ezhavas on its rolls. So he was fairly a representative of that section as well.

MR. T. K. VELU PILLAI: I wish to know whether that gentleman of the *misradayam* community was elected to the committee as the secretary in consideration of the fact that the S. N. D. P. Yogam was confined to the *misradayam* Ezhavas.

MR. M. GOVINDAN: I did not say that he came as the representative of the S. N. D. P. Yogam. What I said was that he was the secretary of the S. N. D. P. Yogam.

MR. K. P. RAMAN PILLAI: May I know, Sir, whether the secretary is not elected?

DEPUTY PRESIDENT: The secretary is elected. He is the secretary of the Yogam and not the representative of the community.

MR. M. GOVINDAN: There are two *misradayees* here to-day who are for complete devolution. I am including in the list one gentleman who is the secretary of the S. N. D. P. Yogam, *viz.* Mr. Kumaran.

The point that I wish to emphasise is that it is only a small minority even of the *misradayees* that are desirous now of excluding themselves or of perpetuating the law that they have been hitherto following. The Law Committee's report was absolutely unanimous. There was not a single dissenting note there. The non-Ezhava president and all the Ezhava members presented a report in which they unanimously recommended that the whole of the self-acquired property should go to the wife and children. My friend Mr. Subba Aiyar said—and I was a little disappointed when he said so—that there was a considerable minority in favour of the *misradayam* system of inheritance. If you only look at the report,—

DEPUTY PRESIDENT: He meant a respectable minority.

MR. M. GOVINDAN: It may be that that is true in point of the mere number of *misradayam* witnesses.

MR. V. SUBBA AIYAR: It is clear from the figures given in the report.

MR. M. GOVINDAN: Let us look at the nature of the evidence recorded by the committee. I would not have mentioned names if

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Mr. T. K. Velu Pillai did not want them. The committee makes reference to names. The committee says that Sri Narayana Guru, himself a *misradayee* by birth, is for complete devolution of the whole self-acquisition. Dr. Palpu, a leading member of the community and a *misradayee* belonging to the *tarwad* of Mr. Paramesvaran himself, is for complete devolution.

MR. A. HOOGEWERF: I beg to know what the relation is between Dr. Palpu and Mr Paramesvaran.

MR M. GOVINDAN: Mr. Paramesvaran is Dr. Palpu's brother.

There are other members of his family and I am not certain whether Mr. Paramesvaran himself will be able to get a majority for his proposition even in his own family.

DEPUTY PRESIDENT: That is no argument.

MR. M. GOVINDAN: In legislating we do not simply go by numbers. Even in numbers we are not lacking. We have to go by the refined opinion of the representatives of the community. There are some members whose opinion may be swayed one way or the other. A number of signatures cannot be said to indicate the consensus of opinion of the community. The great majority of us, followers of *misradayam*, including almost all the educated men, are in favour of complete devolution. We are not negligible quantities. What I wish to impress on the House is that the *msiradayam* section itself does not want to be excluded actually from this legislation, that the sympathy of the House is not required for that purpose, and that what they want is to derive the benefit of the provision for complete devolution of self-acquisition to the wife and children, which the House may enact in favour of the pure *marumakkathayees* of north Travancore who are practically united in their demand.

Hitherto I was speaking of the volume of public opinion in favour of complete devolution. I am next proceeding to consider whether the provision for complete devolution or a half and half system is more beneficial.

Just ten years ago, the Nair Regulation was enacted. That Regulation newly conferred on the wife and children the right to inherit one-half of the self-acquired and separate property of a Nair. As Mr. Velu Pillai pointed out, I think, I was one of the signatories to a memorial that was for the first time presented for securing that law, when I was a member of the Sri Mulam Popular Assembly. I did not, however, think it advantageous to get myself included in the committee for framing a common piece of legislation for all *marumakkathayam* communities as originally intended, because the Ezhavas had already an advantage in the matter of their rights, if of course the House would permit me tostyle development in the direction of *makkathayam* as an advantage. They had already a mixed system in a considerable portion of Travancore and many of the Ezhavas were following *makkathayam* exclusively. Justice Mr. Sadasiva Aiyar has observed, in one of his judgments, that the right

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[Mr. M. Govindan.]

of the *misradayan* Ezhava to inherit a considerable portion of the father's property is a vestige of his former condition and that the Ezhavas were followers of *makkathayam* before their migration into Travancore. That cannot be said to be without any foundation, although the learned Judge's observation may not be considered as authoritative on a point of history. I say it is not without foundation, as the migration of Ezhavas has not stopped yet. The Ezhava Committee observed in their report that they found by examination of witnesses that there were some men still coming in, who follow *makkathayam* in Tinnevelly and *marumakkathayam* when they come and settle at Kottar. What I mean to say is that we were already on a vantage ground in the matter of inheritance and if we could only wait for a few years and see what measure the Nair community got by way of legislation we could by a separate enactment make a further move towards *makkathayam*. That was what I thought. We have succeeded so far; but if to-day, in this House, the proposition that the whole self-acquisition should devolve on the wife and children is lost, I should be sorely disappointed, because, if that is lost and the Nair Bill providing for complete devolution and individual partition is carried, we who had all along an advantage in this one matter alone, would be left behind.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Are the requirements of one community the same as that of another?

MR. M. GOVINDAN: I do not propose to answer Mr. Aiyangar.

MR. T. K. VELU PILLAI: A point of personal explanation. To avoid such difficulties I wanted to consider all these bills at the same time.

DEPUTY PRESIDENT: That does not arise here. You are not in order.

MR. T. K. VELU PILLAI: Any member can at any time submit a personal explanation.

DEPUTY PRESIDENT: Your proposition was definitely raised at that time and was overruled. So your personal explanation does not arise here. I am perfectly willing to permit you to move an amendment.

MR. T. K. VELU PILLAI: I wish to ask one question. Suppose this section becomes law. In a *misravazhi tarwad* there is *tarwad* property and there is also certain separate *makkathayam* property. According to which law should the *tarwad* property devolve and according to which law should the separate property devolve?

MR. M. GOVINDAN: The answer is in the bill itself. Except as altered by this section, the old law will govern.

MR. T. K. VELU PILLAI: Does he mean to say that in the same family there should be separate systems of law?

MR. M. GOVINDAN: That is inevitable. It may be called a hybrid system. The only system we wish to have is one with *thavazhee*

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partition of *tarwad* property and complete devolution of self-acquired and separate property. In recommending to give the whole of the self-acquired and separate property to one's children—the persons for whose existence the acquirer is responsible—I do not think much argument is necessary. As Mr. Aiyangar pointed out, I am not aware that, in a matter of social legislation like this, we should confine ourselves to codifying the existing practices and recording customs. Such a restricted view of our functions has not been adopted in the case of other communities. I am able to cite at least two precedents, the Christian Succession Regulation and the Nair Regulation, both of which made *alterations* in the customs according to the views of the majority including the refined sections of the communities affected. I only claim the exercise of the same powers by this House in respect of the Ezhavas. What is beneficial in such matters is conforming to the line and tendency of civilisation and the tendency of opinion of the refined section of the community as gatherable from the evidence of witnesses. Ezhavas live with their wives and children, even in places where pure *marumakkathayam* is followed. Many give all the self-acquisitions in their life-time to the wife and children. The *misra'a'ees* are not satisfied with the substantial portions that their law gives. They too make gifts during their life-time to their wives and children and all these show that people are not contented with the existing system and that it requires alteration.

With regard to the exemption, I think it will be a most unfortunate thing if the community is cut up again by statute into two for purposes of inheritance.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: May I ask Mr. Govindan if it is going to increase the number of sections?

MR. M. GOVINDAN: If left alone, the communities may merge into one another; but if a statutory provision is made cutting off one family from another, they will find it very difficult to come together. I do not deny that my friend Mr. Subba Aiyar would be able to draft very readable provisions for exemption. His capacity for that cannot be denied.

MR. V. SUBBA AIYAR: Because Mr. Rangaswami Aiyangar requested me to do it, I agreed. If you want me to draft anything else, I will do it for you. (*Laughter.*)

MR. M. GOVINDAN: As I said before, in each house there may be members holding divergent opinions and they will have to be separately registered. There is an unfortunate provision in the Cochin Nair Regulation for registration, which, if we are going to introduce it for the Ezhavas here, would cause unrest and confusion.

DEPUTY PRESIDENT: I think both the sections of the community may make some sacrifices.

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[Mr. M. Govindan.]

MR. M. GOVINDAN: I have no objection to the mother being given a small share. The suggestion never came to us when we examined witnesses. Very recently, it was suggested to me that the mother might be given some share. No acquirer I know will have any objection to a sixth share being given to the mother to devolve, not in the *thavazhee* but in the line of the acquirer, after the death of the mother.

DEPUTY PRESIDENT: Something in the nature of a life-estate.

MR. M. GOVINDAN: So long as it is with her, she must have absolute right to the ownership of it. The devolution must be distinct. The share should go to the heirs of the acquirer. That is the only thing possible. If a half share is given, if the property is going to be cut up, the difficulties are many. My Nair friends will be able to tell us the difficulties of the *misradayam* system. They had the experience of ten years. Children do not know to whom they should go for help as regards their education. The uncle sends them to the father and the father sends them to the uncle; and when a young man does not know to whom he should look for educational aid, there would be real difficulty. I am sure Mr. Rangaswami Aiyangar will sympathise with me in that difficulty. That is one matter.

If a *misradayee* Ezhava dies—it must be so in the case of a Nair also—and if he has any assets, there should be partition. The parties do not often consent to arbitration or an amicable settlement. They go to litigation which is often ruinous.

Even if they consent to arbitration, a share of the property would be divided among the arbitrators themselves.

DEPUTY PRESIDENT: That will be no ground for disinheriting parties.

MR. M. GOVINDAN: Every acquirer of properties in the usual course makes a gift of his properties to his wife and children. Many of the signatories themselves would have given all their properties to their wives and children and would have signed memorials without any fear of the law doing harm to their wives and children. That is what I now understand.

MR. A HOOGEWERF: May I know what Mr. Paramesvaran himself has done in this matter?

DEPUTY PRESIDENT: I think, Mr. Hoogewerf, you are not fair. That would not in any way help the House in deciding the issue.

MR. M. GOVINDAN: If this mixed system is to go on, there will be two sets of spies in every Ezhava house. The acquirer will not have peace in his own house. If he takes a pie from his purse, the sons

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would say he is going to give it to the nephew and the nephews would say he is going to give it to the sons. There is no peace or rest or domestic happiness for the *misradayee*. The word "*misram*" means confusion. (*Laughter.*)

MR. A. HOOGEWERF: Has the word any connection with 'misery'?

DEPUTY PRESIDENT: It leads to misery.

MR. M. GOVINDAN: I am happy to find in this House many members of the Nair community who are labouring under the same difficulty and who want to get out of it. I am sure they will not think that their duty to their constituencies makes them fancy that all the signatures in the petitions received by them are genuine. I am not sure whether they have ascertained the number of persons who have signed the memorials presented to them or the nature of the persons who are alleged to have signed the memorials. If those gentlemen consider that for their own community individual partition and *makkathayam* are better than mixed *thayam*, I am sure that there is not behind them a constituency that will come forward and protest against their supporting my position here. In fact, their duty, as the learned President pointed out, is not simply to reflect other people's opinion here. If that were so, we would be descending to the level of reproducing mechanisms such as gramophones. We are here to give our own opinion. I do not mean any disparagement to anybody. I have great respect for the members of this House. Many of them are my personal friends. What I mean is that they can maintain their position as members of this House and as representatives of their constituencies by exercising their judgment and expressing their own views in this House. I do not say that the authority cited by Mr. T. K. Velu Pillai is altogether inapplicable or unacceptable. What I say is that the judgment of the constituency may be availed of, but making use of the judgment of the constituency is not the same thing as reflecting that judgment without bringing one's own judgment to bear on it.

MR. T. K. VELU PILLAI: I wish to make myself understood. I said that a representative ought to use his judgment and not that he should not do it.

DEPUTY PRESIDENT: You can accept it, Mr. Govindan.

MR. M. GOVINDAN: I should thank you for this. You are helping me. I have no objection in accepting the views of my Nair friends who have the experience of ten years in this matter. I rely on their judgment. With these observations, I beg to oppose the amendments of both Mr. Parameśvaran and Mr. Rangaswami Aiyangar.

The Council rose for lunch at 2-15 P. M. to meet again at 3 P. M.

The Council reassembled at 3-5 P. M.

DEPUTY PRESIDENT: Gentlemen, we may continue the discussion on the original amendment of Mr. Parameśvaran as well as

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[Mr. P. K. Narayana Pillai.]

that of Mr. Rangaswami Aiyangar. This is Mr. Rangaswami Aiyangar's amendment:

(2) Notwithstanding anything contained in sub-section (1), any Ezhava *tarwad* wishing to exclude itself from the operation of sub-section (1) may within *six* months from the date of passing of the Regulation notify its intention by registering its name in the office of the Peishkar of the Division in which the *tarwad* is situate.

(3) Notice of such intention as specified in sub-section (2) shall be given by not less than two-thirds of the major members of the *tarwad*.

(4) On receipt of such notice, the Division Peishkar shall, if he is satisfied that the said notice is agreed to and signed by the majority as provided for by sub-section (3), register that *tarwad* as one which is exempt from the operation of the provisions of sub-section (1), and, if he is not so satisfied, reject the notice.

MR. P. K. NARAYANA PILLAI: Sir, the clause of the bill which is now being considered, I presume, is clause 15. It has reference to the question of the devolution of the self-acquired or separate property of any individual after his death. With respect to the motion of Mr. Paramesvaran, I wish to point out that the form in which it has been submitted to the Council is such as not to enable the Council to accept it. Then Mr. Rangaswami Aiyangar has told us what the spirit of Mr. Paramesvaran's motion is. The formal amendment proposed by Mr. Rangaswami Aiyangar is also now before the House. I am sorry I cannot accept that amendment for the reason that the Council is now considering the amendment to clause 15 which deals only with the question of the devolution of the self-acquired or separate property of the individual members of the Ezhava community. What Mr. Rangaswami Aiyangar attempts is to exempt *tarwadi* by a notification, which does not arise for consideration at all under the clause that is now under discussion. So, the whole question has now to be considered in the light of what is called the spirit of Mr. Paramesvaran's motion. In considering that question again, I fear, the case is practically one which has to be disposed of on a consideration of the onus of proof in the matter. The evidence, rather the so-called evidence, may be easily discounted. Mr. Subba Aiyar, in opposing the motion of Mr. Paramesvaran, pointed out two aspects of the matter, one as supporting the original clause and the other as tending to weaken its effect. The first consideration that Mr. Subba Aiyar drew the attention of the Council to was this, *viz.*, that the preponderance of evidence is in favour of the existing clause, so far as the witnesses examined in this particular matter are concerned. That is to say, he, relying on the statistics available in the report, showed that the whole section of the *marumakkathayam* Ezhavas were practically in favour of the present clause. Coming to the other section, that is the *misravazhi* section, he said, that there too there is a preponderance of view in favour of the Bill as it stands. I may at once admit that I am not prepared to set any serious value on this so-called evidence. First of all, to refer to these people as witnesses, and their statements before the committee as evidence, I

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would consider a misnomer, for they are not speaking with reference to any particular fact under investigation. It is, after all, a piece of pure opinion or desire that these have ventilated before the committee. Neither can it be maintained that the aforesaid witnesses are experts whose opinions would be of use in the elucidation of any rules or laws. For, we are not dealing with the existing law but with what the law ought to be. After all, it is only a question of the opinion or belief of the witnesses with regard to the clause under discussion. So, to refer to the statements of these people who have been examined by the committee as evidence and the deponents as witnesses is a very loose use of language. Neither am I prepared to lay much stress upon that portion of Mr. Subba Aiyar's argument to base any conclusion upon the testimony of witnesses tending to support Mr. Paramesvaran's proposition. Looking for the fundamental principles of the present enactment, we get at the underlying idea *viz.*, to attach greater fixity to marital ties and to fix heavier responsibility upon an individual towards his wife and children. As the practice is at present, the *misravazhi* system people allow more than one-half of their property to be inherited by the wife and children. That is a practice which came into existence at a time when the nature of the marital tie in the community was, more or less, of a precarious kind. This bill proposes to draw parties to a marriage into a closer union and seeks to add greater solidarity to such unions. If that idea is acceptable, as it ought to be, and if we are prepared to take a step forward in the direction of securing the permanence of marriages and discountenancing their dissolution, I think we should not allow ourselves to be overpowered by sentimental considerations of maternal attachment and filial dutifulness. It is, after all, not a matter of general occurrence that the mother survives her children. Occasionally, there may be instances in which the mother survives the children. So far as the mother is concerned, the mother may have other children to support her. Again, in the case of loving mothers, what they obtain from their wealthy children is transmitted by them generally to their needy and impecunious children, thus foregoing the benefits arising from personal ownership. Such being the case, the provision for a definite share in favour of the mother, I fear, is likely to fail in its object or become unnecessary. On the other hand, if the attachment of filial duty towards the mother is so strong and deep-rooted as described by some gentlemen, then, naturally, the moral sense of obligation of the son, of the daughter-in-law and also of the grandson may be reckoned as a means of support and help to the mother in a dire contingency. If the House is not prepared to place any trust in moral obligations, a provision for the maintenance of the mother by the deceased's wife and children may be made, as far as the heritage will permit. Beyond that, I consider it quite unnecessary to make any provision. It is not necessary to allot any particular share to the mother, since it is beyond the requirements of the case pressed for. So, these considerations apart, we have absolutely nothing to hold us back from directing the inheritance in favour of the wife and children. All the world over, parental responsibility is very clearly recognised.

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[Mr. P. K. Narayana Pillai.]

Anything tending to detract from or lessen the effect of that obligation or responsibility cannot meet with the approval of any civilised body such as this House. Of course, there is the question of antiquarian interest as Mr. Hoogewerf put it. As to how this system of inheritance has been brought into existence, it is not possible to trace it up to the correct point. If the sources are now discovered, probably it may be proved that those reasons which once existed for the propagation of this system do not at all exist now. There is absolutely no reason in the existing circumstances why the system may not be gradually but effectively changed. That is the attempt on the part of the Ezhava community. I am in full sympathy with that fervent longing of the community. Mr. Subba Aiyar also pointed out the numerical strength of the witnesses examined in this connection. We have got about six lakhs of Ezhavas in the State. The present measure is intended to operate not only within the confines of Travancore but occasionally in Cochin and Malabar also.

MR. V. SUBBA AIYAR: No.

MR. P. K. NARAYANA PILLAI: *Occasionally*, I say; so much so, that more than six lakhs of people are interested in a measure of this kind and yet we have got only a few hundred people examined in connection with the question in dispute. Even granting for argument's sake that the question is to be decided by the number of witnesses voicing the wishes of the community, I submit that the paltry numbers that have been examined do not supply anything like an adequate foundation for a valid conclusion. The number of witnesses examined is 791 males and 10 females. Their testimony cannot be accepted as representing the views of the rest of the community; for this is not a case in which what is known as *Sthalipulaka*( ) *Nyayam*, or the principle of the boiling pot and the grains, applies. Mr. Subba Aiyar said that there had not been any representation of the community before the Ezhava Law Committee, or, for that matter, before the Select Committee, with respect to the question involved here. All the present representations have been from one particular source, namely, the *misravazhi* section. That in itself excites suspicion, for experience shows that the consciousness of the weakness of the cause advocated is generally attended with desperate and frantic attempts to the exclusion of cool argument and placid logic. So, this output of petitions and the row created may be taken as a sign of weakness on the side of the party responsible for their production. If we are right in applying this test also, the objection of the minority to the measure that is now before the Council is not entitled to any very serious weight. There is yet another aspect of the question. As I said, all the wide world over, more than 99 per cent of mankind follow *makkathayam* inheritance. The *marumakkathayees* are in a microscopic minority. Of these *marumakkathayees* themselves, so far as the Ezhava community goes, we see that the *marumakkathayees* are for the enactment of clause 15. Then there is a still lesser

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microscopic minority represented by the *misravazhi* set of people. It is they or rather a section of them that now come forward to raise a protest not only on their own behalf, but on behalf of their *marumakkathayam* brethren as well, to persuade this Council and the benign Government also to adopt a different course. (*Laughter.*) Under these circumstances, the force of this motion is very weak.

But there is one other aspect of the matter. As I said, there is Mr. Paramesvaran whose *bona fides* I do not proceed to dispute. He raises the question why he should not be exempted. That, as Mr. Rangaswami Aiyangar pointed out, is a question which calls for consideration. Since complete control over the properties of any particular person during his life-time rests with him and since we are prepared to relax the provisions of the Wills Regulation, so far as self-acquisitions are concerned, even if we pass this bill as it is, it is very easy for Mr. Paramesvaran and those following his lead to evade the law by disposing of their properties before they die. So, they are not seriously affected by this measure. In view of that facility, Mr. Paramesvaran need not vehemently press his objection; but, in spite of all this, if he feels any uneasiness, he and those who share his views may be personally exempted from the clause in question. We do not suffer anything thereby and they do not gain anything thereby (*laughter*); because, even in the absence of any exempting clause, they can defeat the inheritance now provided for; and, even if the exemption is made, the wife and children may yet get the properties of the deceased. In this light, the exemption clause will, no doubt, be a superfluity, serving no other purpose than that of soothing sentiments. I see that Mr. Paramesvaran is unable to understand English. I have no objection to continue in Malayalam.

DEPUTY PRESIDENT: You may continue in English

Mr. P. K. NARAYANA PILLAI: So, what I say is that appropriate exemption may be made in the case of individual members of the *misravazhi* system. To those who object to clause 15 of the bill, a time-limit may be granted to raise their protest, within which time if they register their dissentient voices, they may be taken into consideration at the time of finally passing this bill.

DEPUTY PRESIDENT: That is not commendable.

Mr. P. K. NARAYANA PILLAI: If so, a time-limit may be made in the Regulation within which they may be given the necessary facilities to withdraw themselves from the clause in question. At the same time, may I point out some difficulties for Mr. Paramesvaran's kind consideration? The *marumakkathayam* Ezhavas will gradually get converted into *makkathayam* Ezhavas. There is already the regular *makkathayam* Ezhava. Also we have got the *misravazhi* Ezhava. The contemplated exemption will go to divide the *misravazhi* people again into the reformed and unreformed sects. These heterogeneous parties will come into existence. I doubt whether

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[Mr. K. C. Mamman Mappillai.]

there will not be difficulties in regard to marriages between members of the various sections of the Ezhava community. All these complications demand the attention of Mr. Paramesvaran. If he still persists in the protest he has raised, fancying it as a matter of principle, then, as a concession to his stout steadfastness, this luxury of an exemption may be provided for.

DEPUTY PRESIDENT: Do you accept Mr. Rangaswami Aiyangar's amendment?

MR. P. K. NARAYANA PILLAI: In making these observations, I am neither supporting nor opposing. I am only explaining my view of the matter. Again, as Mr. Govindan has been observing, even among the *misravazhi* people, the majority want clause 15 of the bill. That statement of Mr. Govindan is entitled to weight and I am prepared to act upon it. I would all the same like to have the section so shaped as to please Mr. Paramesvaran also. (*Laughter.*)

DEPUTY PRESIDENT: I think you began by saying that you opposed both the amendments.

MR. P. K. NARAYANA PILLAI: That is still my position as the amendments stand at present. The amendment of Mr. Paramesvaran curtails the present practice of the community in this respect. As to Mr. Rangaswami Aiyangar, it is impossible to exempt families when, as a matter of fact, we are concerned only with individuals. (*Laughter.*)

MR. K. C. MAMMEN MAPPILLAI: Sir, the Ezhavas form an important community on the west coast. They have been for long subject to various social and legal disabilities which got fastened upon them during the course of the gradual evolution of society on the west coast. There are not very many members representing that community in this House, and, therefore, persons of other communities who are members of this House have got a very great responsibility resting upon them to see that, in the valiant efforts of the Ezhava community to extricate themselves from the shackles of the past, nothing is done to retard the progress of the community or to put difficulty in their way. Now here is a very important question which has to be taken up most carefully. The system of inheritance is one of those things that will materially affect any community in its onward march. Whenever any attempt is made to legislate upon matters of this nature, all kinds of side-issues are brought forward and undue importance is sometimes sought to be given to points which in themselves are comparatively trivial. In judging for ourselves how far we ought to give heed to the opponents of measures of social legislation, which on theoretical grounds are admittedly unexpectionable, we may, with great advantage, consider the after-results of the important and far-reaching measures of this nature which were enacted by the predecessors of this House on behalf of the Christian and the Nair communities of this country. In the case of the Christian

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Bill particularly, loud voices were raised in protest foretelling endless litigation and complete ruin as the result of passing such legislation. But we have had the experience of several years and we know that the prophecy has been completely falsified. Therefore, I am not disposed to attach much importance to the cry which has been raised by the *misra-vazhi* section of the Ezhava community that, if their particular brand of succession law is not perpetuated, the community will be ruined.

As Mr. P. K. Narayana Pillai pointed out, the *makkathayam* system of inheritance is universally accepted to be the best from the experience of the whole world. We find that the few communities which follow other systems have also been trying gradually to incorporate this system into their social fabric. In this particular case, we have got the assurance of one who may be admitted to be the spokesman of the community, Mr. Govindan, that, when this measure was being investigated by the Ezhava Law Committee, even those who are now standing for the other system were in favour of the line that is now embodied in this Bill. I cannot understand why those very persons should now turn round at this stage. Anyhow, the undue importance that is now sought to be attached to this particular aspect does not appeal to me as deserving of the sympathy and support of this House. My own conviction is that, if we allow the Ezhava community to have the system of *makkathayam* in all its fulness, it will be only conducive to the permanent welfare of the community. Therefore, I am strongly of opinion that the amendment should not be accepted.

MR. K. PARAMESVARAN PILLAI: Sir, I recognise the very great responsibility that falls upon this House in legislating upon a social matter like the one under discussion affecting not the whole State but only one of the several communities that inhabit the country. Therefore, it is natural that members should feel difficulty in commenting upon the Bill. But, speaking for myself, I have absolutely no excuse for feeling any such difficulty in legislating for my friends, the members of the Ezhava community. I hope that in saying this I express the opinion not only of myself but also of other members in this House who belong to my community, because we have been for generations past following the same system of inheritance, social customs and manners. We have been the inheritors of the advantages and defects of the *marumakkathayam* system of inheritance as much as and to the same degree as the Ezhavas. The reforms which this community ask for in regard to the *marumakkathayam* system are substantially the same as those for which we have been agitating. Hence, I have absolutely no compunction of conscience in expressing myself freely on the bill now before the Council although it is intended to apply only to Ezhavas. Again, in regard to the particular provision now under discussion, *viz.*, that the whole of the self-acquired and separate property of an intestate shall devolve on his widow and children, I think that, if my community is prepared to go as far as this section proceeds, I cannot understand why we should hesitate to apply this provision to the Ezhavas. For, if there is in Travancore any *marumakkathayam* community whose tendency

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[Mr. K. Paramesvaran Pillai.]

has been for a long time past to pass from *marumakkathayam* to *makkathayan* more than any other community it is the Ezhava commuuity. We notice among them sections of people in different stages of this transformation. We have amongst them the majority of people who follow the *marumakkathayam* system pure and simple. We have amongst them another small community who follow complete *makkathayam*. We have among them those whom Mr. Paramesvaran seeks to represent, *viz.*, those who follow what is known as *misravazhi* which, I take it, is a compromise between the two conflicting systems of *makkathayam* and *marumakkathayam*. We had not got anything like this in the Nair community which was purely a *marumakkathayam* community till the Nair Regulation of 1098 was passed which converted them into something like the *misravazhi* section of the Ezhavas who live on this side of the Quilon bar. The Ezhavas have thus made greater progress in their march towards *makkathayan* than the Nairs and therefore I can recommend at least so much progressive social legislation for the Ezhavas as I can for the Nair community. Now, in regard to this matter, we must be guided in the first place by the sense of the community—I mean, the general sense of the community. Secondly, we must be guided by the tendency of the community *i. e.*, as to whether their tendency is to continue as *marumakkathayees* or to adopt *makkathayam* in increasing proportion. Thirdly, we must also be guided by what we consider to be the greatest good of the greatest number of the community concerned. In regard to the sense of the community, it appears to me that the report of the Ezhava Law Committee should afford sufficient evidence. My friend Mr. P. K. Narayana Pillai told us that the evidence taken by the committee is not entitled to the name of evidence in the legal sense and that it has merely recorded the desire of the individual members of the community as to what the law should be. Well, Sir, to me it appears that, even granting that it merely records the desire of each individual of the community as to what the law should be, it is of immense value in determining what the tendency of the community is. If a large section of the community desires that a particular system of inheritance should prevail in that community, it shows that the tendency of the community is towards that particular system and the State should help them to remove all legal barriers between them and their goal. Thus, adopting the view taken by my friend, the evidence taken by the Ezhava Law Committee is of immense utility in determining the sense of the community as a whole. To properly appreciate the value of the evidence taken by the Law Committee we must have due regard to one or two facts. In the first place, both the sections of the community *viz.*, purely *marumakathayees* and *misravazhi* people, were equally represented on the committee, and it was presided over by a gentleman of considerable judicial experience, one who had absolutely no interest in deciding the question either way. Therefore the abstract of the evidence given in the report is of very great value, and I accept

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it as correct. I fully sympathise with those of my *misravazhi* friends who think that the *misravazhi* system should be perpetuated. Among them, I find two very important members of the community—both my friends—*viz.*, Mr. C. O. Madhavan who I understand, has subsequently changed his opinion, and also Mr. C. V. Kunjuraman among the witnesses examined by the Ezhava Law Committee.

MR. K. P. RAMAN PILLAI: I believe he has also changed.

MR. K. PARAMESVARAN PILLAI: If that is so, the position is much stronger. Let us see what exactly is the reason given by them for their conservative opinion. In paragraph 39, at page 15, of the report, Mr. Kunjuraman's argument is summarised as follows:—

"That the diversion of the whole self-acqusition in favour of the wife and children coupled with a right to individual partition of such property among them is opposed to the cardinal principle of *marumakkathayam* and that it will in course of time tend to weaken the integrity of the *marumakkathayam* family leading to its gradual dislocation and the complete evolution of *makkathayam*, a consummation which, it is feared, would work hard on the minors and female members of the community."

So that the reason given by the dissenting witnesses who had a contrary opinion was that this will tend to the disintegration of the *marumakkathayam tarwads* and tend to make the community a *makkathayan* community. If, as a matter of the fact, the community is prepared to remain pure *marumakkathayees*, I think we shall be absolutely wrong in compelling them to accept a legislation which proposes to change that system. If, on the other hand, there has been a tendency in the community to accept more and more the principles of *makkathayan* and that tendency has been growing and has grown to a considerable magnitude, then, I submit, there can be no doubt as to the wisdom of the course sought to be taken by the legislature, because, even according to the testimony of the conservative witnesses, that is exactly the course which is sure to lead them to their goal, *viz.*, *makkathayam*. As to this tendency towards *makkathayam* prevailing in the community, I believe, even my learned friend Mr. Paramesvaran, I hope, will not disagree with us. It cannot be denied that at one time all the Ezhavas must have been *marumakkathayees* including those, designated *misravazhi*. Subsequently when the *makkathayam* tendency grew up among them probably because of their coming more and more in contact with *makkathayam* communities and *makkathayam* bequests in favour of the wife and children became more common, they adopted a sort of compromise by accepting *misradayam*. Thus we see, that from a long time past, the tendency towards *makkathayam* gained strength in the community. If courts had allowed them to do so, these people would long ago have become pure *makkathayees*. I would, in this connection, invite the attention of the House to paragraph 40 of the Ezhava Law Committee's report.

"History furnishes examples of various other communities in the world which have developed their present patriarchal system from what was once a purely matrilineal one under which property descended through women. Among the Ezhavas the institution of marriage on a refined definite basis marks the first stage in their process of evolution, which in its turn quickened by education and opportunity has brought out

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[Mr. K. Paramesvaran Pillai.]

striking changes in the outlook of the community. The conjugal union is held in the community as sacred and inviolate as in any other and the sense of paternity is deeply ingrained. The wife generally lives with the husband in his house along with their children. The father acts as the guardian of his children and educates them. He feels that he lives and works for his wife and children, and the latter, whether they contribute or not to his self-acquisition, are in the generality of cases made to expect the fruits of his labour. When he dies, his children observe pollution and perform his funeral obsequies and *sraddha*. Every prudent father conscious of the disability placed by law in the way of children's inheritance takes care to settle his self-acquisition on his wife and children by some means or other. If by chance he fails to do so, the customary law relating to a large portion of the community recognises his children's right of inheritance to a substantial portion of his self-acquisition".

That shows how the wind blows. The tendency now is towards *makkathayam*, and as it is so, the sooner we give statutory recognition to it the better. We have also to take into account another thing which may affect the determination of this question. We are providing for partition in Ezhava familes. The system of partition is not merely *thavazhee* partition but is a mixture of individual and *thavazhee* partitions so that individuals will get their shares, and the several branches will also get their shares. In view of the fact that the major portion of the wealth of the community consists of land, it is inadvisable to frame the law in such a way as to allow the land being split up into a larger number of shares than is unavoidable.

DEPUTY PRESIDENT: That will go against the theory of individual partition.

MR. K. PARAMESVARAN PILLAI: No, it will not. What I say is not that there should not be individual partition but we must also provide the necessary safeguards which will minimise the evils attendant on such a course as much as possible. One of such safeguards is not to needlessly multiply heirs. It appears to me, therefore, that there is neither reason nor sentiment in favour of the proposition brought forward by Mr. Paramesvaran. My learned friend Mr. Rangaswami Aiyangar says that in social legislation we should have absolute unanimity of opinion and that we should only codify the existing practices and not introduce any innovation. But I believe Mr. Rangaswami Aiyangar knows that itis absolutely impossible to get unanimity of opinion in any matter. There is a Malayalam saying that even in the matter of the inadvisability of assaulting one's mother there are likely to be dissentients. Therefore unanimity of opinion in such a matter of social legislation, especially when individual interests are likely to be affected by it, is out of the question.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Is it difficult to secure unanimity of opinion in regard to each person being allowed by law to follow his own practice?

MR. K. PARAMESVARAN PILLAI: Then we must make a law for each man and not for each community. (*Laughter.*) It is impossible, as I said, to get unanimity of opinion in such a matter. Again,

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experience has shown that, though there may be opposition to such measures before they are passed, it will die out in course of time and that the communities concerned will adjust themselves to their altered surroundings. Mr. Mamman Mappillai mentioned the Nair Regulation and the Christian Succession Regulation as illustrating this position. I do not know whether there was much opposition in regard to the Nair Regulation, because there was some practical unanimity of opinion so far as the Nair Regulation was concerned. But in regard to the Christian Succession Regulation, I know there was a great deal of opposition when the bill was under consideration. Such views were heard within the Council itself. I happened to be a member of the Council at that time. I remember Mr. Kuruvila Varkki's impassioned appeal to the House in which he predicted that the measure was going to smash the whole Christian community to pieces. The law was passed 4 or 5 years ago. Nevertheless, the community prospers and will continue to prosper for ever. So, in social as in other legislations, absolute unanimity of opinion cannot be aimed at. The general sense of the community should alone be the guiding factor. It has then been contended that the duty of the Legislature should be restricted to merely codifying the existing practices and customs. If that principle was adopted by the legislature, I think we should have been several decades behind now. Mr. Rangaswami Aiyangar himself knows that his community was practising what is known as *sati*.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Mr. Rangaswami Aiyangar does not know it. It is a supposition which rests upon that mere assertion.

MR. K. PARAMESVARAN PILLAI: I have read in history that it existed among certain classes of the Hindu population. The British Government came and abolished it. They did not as a matter of fact codify the existing practice but did something entirely different.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: May I say that I proceeded by saying that if it is contrary to public policy or public morals that might be provided for in spite of the opinion of the particular community? I am afraid that Mr. Paramesvaran Pillai did not listen to what I said.

MR. K. PARAMESVARAN PILLAI: Therefore there are obvious exceptions, at any rate, to the rule enunciated by Mr. Aiyangar. But the exceptions mentioned by Mr. Aiyangar are not exhaustive. There may be other considerations than those mentioned which might need legislative intereference and I say this is one such. In my opinion, we are perfectly justified in legislating for the community if we are satisfied that it will be for the good of the community as a whole and if we are supported by the general sense of the community. These are the only two considerations that should weigh with us in this matter. We are not only fortified by the unanimous opinion of two-thirds of the community but also by that of the Ezhava Law Committee. Therefore I submit that, while I am sorry that I should, in a matter which directly

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[Mr. N. Kumaran.]

affects the entire Ezhava community, have to take a particular position, I have great pleasure in supporing the proposition and in opposing both the amendments.

MR. N. KUMARAN: Sir, it seems to me that there is a good deal of misunderstanding with respect to the work of the Ezhava Law Committee as well as the condition of the community in Travancore. My friend Mr. C. P. Kochukunju Pillai began by saying that the Ezhava Law Committee which went round and collected evidence for the purpose of framing this Bill was guilty of certain irregularities.

DEPUTY PRESIDENT: He did not use such strong language.

MR. N. KUMARAN: He said in effect that the committee did not examine all the witnesses that appeared before them and that therefore the majority that is mentioned in the committee's report was not a real majority and that it could have been only a minority if all the witnesses, who appeared, had been examined. There is one unfortunate circumstance with respect to this debate. Some of my friends have not taken the trouble to go through the whole of the Ezhava Law Committee's report. If my friend Mr. Kochukunju Pillai had taken the trouble to go through the report, and the appendices given at the end, he would have seen that the committee was at Kottarakara which my friend represents, and a number of prominent Ezhava gentlemen were invited to be present and to give their evidence but that they failed to do so. I refer to Appendix IV attached to the report. Here, I would also say a word as to how the witnesses were invited. The committee had issued instructions through Government to the Tahsildars in charge of taluks, and they were requested to invite a number of prominent members of the Ezhava community in their taluks to appear and give evidence before the committee when they reached particular stations. The witnesses were selected by the Tahsildars in accordance with instructions issued to them. The members of the committee had absolutely no choice in the matter. The Tahsildars had in all cases issued the necessary instructions to the witnesses to appear before the committee. At Kottarakara, the witnesses from the Kottarakara, Pattanapuram, Shencottah and Kunnattur taluks were to be examined. As many as 95 gentlemen were invited, of whom only 25 appeared. Now, it is very regrettable that, when this information is available from the report, this House should be given to understand that the committee, while at Kottarakara, were not willing to examine all the witnesses who appeared before them for examination. In the remarks column of Appendix IV we find it mentioned that no witness who appeared, whether invited or uninvited, was left unexamined. Twenty-five of the witnesses that were invited appeared and six others who had not been invited also appeared and all of them were examined. I have merely taken Kottarakara as an illustration. This was the system followed by the committee in all the other stations.

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MR. C. P. KOCHUKUNJU PILLAI: Did a body of Ezhavas approach the committee with a petition?

MR. N. KUMARAN: That is too vague a question for an answer. The report would show the existence of certain oppositions during the time of the examination of these witnesses. The opposition originated at Paravur. Certain Ezhava gentlemen of that locality headed by Mr. C. V. Kunjuraman organised a *misravazhi* committee and Mr. C. V. Kunjuraman was elected as its president. This agitation was started to show that, so far as the people of Paravur are concerned, no change in the *misravazhi* system was needed and that they did not want *makkathayam*. Subsequently some gentlemen of Trivandrum, Neyyattinkara and Chirayinkil also caught this contagion and began to assist Mr. Kunjuraman in organising this opposition. When the committee came to Trivandrum and Attingal,—

DEPUTY PRESIDENT: I do not think it desirable to go into these side-issues. So far as this Council is concerned, I think it will give weight to the Ezhava Law Committee's report and not be swayed by the number of petitions received two days back.

MR. N. KUMARAN: At least two of my friends were making serious allegations about the work of the committee.

DEPUTY PRESIDENT: They merely relied upon the statement in the petitions and never held themselves responsible for the correctness of the contents.

MR. N. KUMARAN: When members of this Council would take the responsibility of making these representations and would stand by them, I think it is my duty to deal with the matter in detail.

DEPUTY PRESIDENT: I do not think they go so far. Do you vouch for the correctness of the statements in the petitions you presented, Mr. Raman Pillai?

MR. K. P. RAMAN PILLAI: No.

MR. N. KUMARAN: If so, we shall leave it there. Now, with respect to the various systems of inheritance followed by the community, I may say that the community is not thereby divided into so many sections not having social intercourse or inter-marriages between them. Some of them follow *makkathayam*, while a great majority of them, more than 60 per cent., follow *marumakkathayam*. About 2 lakh, follow *misravazhi*. The *makkathayam* Ezhavas are only a small minority. They are found mostly in south Travancore. They are out of this bill. With respect to the other sections of the community who form the great majority, they are *marumakkathayees* and they, as almost one man, have demanded the *makkathayam* system. They have signified this wish in unmistakable terms, and the committee's report has also made it clear that there was no difference of opinion amongst *marumakkathayees* worth mentioning with respect to *makkathayam*. They inhabit the taluks north of Quilon.

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[Mr. N. Kumaran.]

With respect to the *misaravzhi* section, it was made to appear here, and my learned friends who supported Mr. Paramesvaran seem to have understood, that there is only one section among the *misravazhi* Ezhavas, namely, people who are of Mr. Paramesvaran's persuasion. The fact is otherwise. No doubt, there may be people who do not want the present measure at all. But we cannot expect absolute unanimity in a matter of this kind. There may be a number of persons in the Quilon, Trivandrum, and Neyyattinkara taluks and probably also in Chirayinkil, who do not want the system of inheritance recommended by the committee or embodied in the Select Committee's report. If this Council is going to wait till the whole community expresses its unanimous voice for legislation for *makkathayan*, I submit, this House will have to wait till eternity and yet may be disappointed. All that we have to do is to see whether the majority of the witnesses who have been examined and whose opinions have been ascertained have signified their wishes for a particular provision and whether their wishes have been embodied in the bill. I submit this House has such an opinion to go by. If the House accepts the opinion which is very clearly recorded in the committee's report, then there is no difficulty for coming to the conclusion that section 15 can be accepted without any hesitation whatever. With respect to Mr. Paramesvaran's amendment, the only material point urged by him in support of his amendment is that it would be inadvisable for this House to legislate for an unwilling section of the society. It is very difficult to ascertain exactly what would be the proportion of that unwilling society. At any rate, since it is not possible to ascertain the force or quantity of that opposition at this stage of the bill, my view is that the House should not recognise that opposition and that it should not stop the progress of the bill.

I should like to refer to another aspect of this opposition. The committee made the report about 4 years ago. The Select Committee's report was also published a year ago. The bill came up for discussion in the last sitting of this Council, *i. e.*, in the Vrischikam sitting. Till hen, there was not so much of opposition. Now, between Vrischikam nd Meenam, so many petitions were printed and signed and submitted to this House and a show of opposition has been created. I think the members of this House will not be exercising their discretion wisely, if they are to give a value to each signature that appears in these petitions.

In regard to the amendment proposed by my friend Mr. Rangaswami Aiyangar, I think I cannot accept that amendment also. Mr. Govindan gave very valid reasons why such an amendment could not be accepted. The other gentlemen who have already spoken on the subject have stated other objections to that amendment. My view is that, if it is accepted, it might lead to very serious difficulties. If Mr. Paramesvaran will think over the question and consider the very serious difficulties to which he and persons of his persuasion would be put in registering and ascertaining the opinion of the people as to whether

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they are to follow *misravazhi* or *makkathayam*, I believe, he would be the first person not to accept the amendment. If that amendment is accepted and passed into law, there may not be probably more than half a dozen *tarwads* in the community prepared to take the trouble of going and registering their intention not to be bound by the section. At any rate, it is not desirable that we should give the community this very wrong provision and compel them to undergo all the difficulties incidental to it. It would lead to serious litigation. It would not be possible to ascertain whether the majority, or the two-thirds majority which is required by the amendment, have signified their assent. Most of us who have experience of litigation in civil courts know what amount of difficulties this amendment would give rise to. Further, let us look into the merits of the question. After all, what is it that is laid down by section 15? We have not been creating serious innovations in the family law of the Ezhavas. The committee's report would show that, even among the *marumakkathayam* Ezhavas, almost all the acquisitions that they make are given to their wives and children. In regard to *misravazhi* Ezhavas, over and above the one-half or more than one-half that they get legitimately under the system of inheritance from the acquisitions of the intestate, they sometimes get large gifts, so much so that the tendency as pointed out by Mr. K. Paramesvaran Pillai is very clear. And the question then is whether it is an unnatural or immoral thing for a man, who is making acquisitions, to see that all his acquisitions devolves on his wife and children. If the tendency is found to be in the direction of providing for persons whom the acquirer has called into existence and if that tendency is natural and legitimate, I think the legislature will be only doing its duty when it enacts a law for that purpose. It is not for the other side to argue that, if any Ezhava wants to give all his acquisitions to his wife and children, he may do so by making out a will.

The duty of the legislature is to take the side which the natural tendency of the human mind would take. If this is the standard, there can be no doubt that the legislature is bound to accept this provision by which one may be enabled to transmit the whole of his self-acquisitions to his wife and children.

MR. M. K. KHADIR PILLAI: Sir, I move for a closure.

DEPUTY PRESIDENT: I do not myself want to set a time-limit to the speeches to be delivered by the members on this important motion. I think public interest demands that we may usefully spend another half an hour for the discussion of such an important question which affects a very large section of His Highness' subjects. I do not, therefore, think it necessary to close the discussion just now.

MR. A. HOOGEWERF: After the brilliant speech of Mr. K. Paramesvaran Pillai,—

MR. K. P. RAMAN PILLAI: Sir, I rise to a point of order. Has he not spoken before on the amendment?

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[Mr. A. Hoogewerf.]

DEPUTY PRESIDENT: He is now speaking on Mr. Rangaswami Aiyangar's amendment alone. He is entitled to make his observations which, we have no doubt, will be very weighty but brief. (*Laughter.*)

MR. A. HOOGEWERF: After the brilliant speech of Mr. K. Paramesvaran Pillai, I hardly think that there is any necessity to lengthen the discussion. In his compromise amendment, Mr. Rangaswami Aiyangar suggests that the *misravazhi* community who wish to retain the existing law should be exempted from the operation of this bill. I am of opinion that, if this proposal is accepted, there would be interminable dispute in the Ezhava family. Before Mr. Rangaswami Aiyangar's amendment is accepted, it is necessary to see what are the difficulties that it may lead to. In the first place, the members of each *tarwad* should unanimously express their opinion on this point. The question as to who all constitute the members of an undivided *tarwad* is one which cannot be solved without reference to a court of law. Even if that question is decided, I can confidently assert that, in 99 cases out of 100, it may be difficult to obtain the unanimous opinion of the members of a *tarwad*. Mr. Rangaswami Aiyangar tells us that the opinion of the majority should not be forced upon the minority, however small. I may observe here that the liberty of the individual ceases when the good of the community begins. We have practical experience of the majority and minority principle, when one single member is able to turn the scales against the others. Mr. Rangaswami Aiyangar's amendment, if accepted, is likely to be of no practical utility to anybody. It will lead to dissensions and disputes in families which would otherwise be in the enjoyment of peace and prosperity. It will lead to a continuous tug-of-war in the families where some will be in favour of *misravazhi* and others in favour of *makkathayam* and so forth. A house divided against itself must necessarily fall. It will be highly deplorable if this bill turns out to be a source of dispute among the Ezhavas, while we are legislating for their welfare and prosperity. In this connection, I would seriously invite the attention of the House to the opinion of the spiritual head of the community who has expressed himself in favour of the widow and the children inheriting the whole of the separate property. We should also keep in mind the recommendation of the Ezhava Law Committee in the matter.

DEPUTY PRESIDENT: That does not arise now. You have said all that before.

MR. A. HOOGEWERF: I regret that the great labours of that committee have not been appreciated by some of the members of this House. I would, therefore, earnestly appeal to the House to consider the lucid exposition of Mr. Govindan, who is considered to be an ornament in the service, as rightly observed by some members, and reject the amendment of Mr. Rangaswami Aiyangar.

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MR. T. K. VELU PILLAI: Matters have been made considerably easy so that I may exercise my vote in this matter. The report of the Ezhava Law Committee gives certain facts. But Mr Govindan, in the course of his speech,—

DEPUTY PRESIDENT: Please confine yourself to Mr. Rangaswami Aiyangar's amendment. You are not allowed to reply with reference to the other amendment.

MR. T. K. VELU PILLAI: Mr. Govindan explained certain statements which I thought went against this particular section. Mr. Kumaran, who is the present Secretary of the S. N. D. P. Yogam, has placed another set of facts before the Council; and as my friend Mr. Hoogewerf pointed out, Sri Narayana Guru Swami is said to be in favour of this measure. When people like Mr. Govindan and Mr. Kumaran come forward and solemnly assert that their Guru Swami is of that opinion, I will certainly trust them.

MR. N. KUMARAN: It was stated in the report of the committee itself.

MR. T. K. VELU PILLAI: Then I trust them all the more. Mr. Narayana Pillai has pointed out—and correctly, in my opinion—that Mr. Rangaswami Aiyangar's amendment would not be a real blessing to any family because the section deals only with self-acquired property, and that a person will be able to dispose of his property by will in any manner he deems fit. More than all these, there is another consideration. I only stood up for the principle that, without sufficient attention being bestowed upon a question of this nature, we would not be justified in coming to a conclusion, and that is why I advisedly said that I did not commit myself to any specific position at this stage. I am satisfied that the amendment is not very beneficial to the community in any way and that nobody is likely to take advantage of it. My friend Mr. Paramesvaran has subsequently told me that, even if this amendment is made, he is not prepared to accept the clause.

DEPUTY PRESIDENT: I think we may leave it to him.

MR. T. K. VELU PILLAI: I am stating it as one of my reasons. The appeal made by Mr. Mammen Mappillai cleared the way to some extent, because, when the Christian Succession Bill was discussed,—I was also a member of the Legislative Council—Mr. Kuruvila Varkki impressed upon me his apprehension that, if the law was passed in a particular fashion, the Christian community would suffer very much indeed. But I know, as a matter of fact, that the community has advanced in all directions after the law was passed. In the light of these facts, and seeing that important members of the community are in favour of the clause in question, and considering also that Messrs. Govindan and Kumaran who are members of the *misravazhi* community—a fact which I did not know before—also are in favour of it, I think that the original clause has to be adhered to. I therefore oppose both the amendments.

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[Dr. N. Kunjan Pillai.]

MR. T. LAKSHMANA PILLAI: Since it has been said that the members of this House take a heavy responsibility on themselves in dealing with an all-important matter that affects a considerable section of the population, numbering over six lakhs, I wish to make my position clear in regard to this question. Whatever be the merits or demerits of the old system of inheritance, it is due to it to say that it has lived for long ages without giving cause to serious discontent or rupture and has spread its roots far and deep into the life of the community in which it has been in vogue. The question is whether a sudden and sweeping change in the system is not fraught with serious difficulties and even disaster to the members of the community as they stand at present I am afraid it would be. I believe that all reforms, to be beneficial, should move slowly and on the lines of least resistence. The community must first prepare itself for the change, however wholesome or desirable the same may be in our view. That the change is acceptable to the majority of the community has not yet been satisfactorily proved. It is a pure question of fact. What justification is there, therefore, for a minority of the community, however enlightened, to force its opinions on the majority, without first preparing the latter in some way to the new conditions that will necessarily face them as a consequence of the legislation now proposed? The enlightened, by the very fact of their enlightenment, should be able to convince and take the people with them, step by step. No short-cut is necessary. The present tendency of the people, it has been said, is in favour of *makkathayam*. My question is: "Are we quite sure about it?" If it were so, the provision would not take many people by surprise, as is evidenced by the representations of the *misradaya* portion of the community to which Mr. Paramesvaran bears testimony. He testifies clearly to the fact that the complete devolution of self-acquired properties on the wife and children does not find favour with a large majority of the *misradaya* section of the community and I see no reason to discredit him. I am, therefore, for allowing exemption to families to whom the provision is not acceptable or seems obnoxious, in case Mr. Paramesvaran's resolution does not find support.

DR. N. KUNJAN PILLAI: I rise to oppose both the amendments. I do so on the ground that, whatever be the opinion of the minority, the goal that the Ezhava community and the communities similarly situated like the one to which I belong, the goal in my opinion that these communities should have in view, is *makkathayam*. Probably there are some members on either side of the Council who may not agree with me. But my honest conviction is that these communities who follow the *marumakkathayam* system of inheritance should aim at the goal of *makkathayam* to be reached either immediately or in the near future. In deciding this question, one cannot ignore altogether the opinion of the minority. If, however, the majority are in favour of a complete reversal of their system of inheritance, and if one honestly believes that such a reversal is for the good of the community, I think it is only reasonable that one should take all steps which will lead the community towards

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that goal. In the light of this fact, I am opposing both the amendments If the amendments are accepted, only one-half of one's self-acquired property would go to one's wife and children, and the other half would descend to one's nephews, sisters and their children, and in that case the goal in view would not be reached. It may be said that, in regard to social legislation, there must be unanimity of opinion in the community; but it is impossible to have unanimity of opinion in regard to any legislation. Even if there is difference of opinion, it must be left to the judgment of each individual to decide what is good for himself and for his community. If a member of a *marumakkathayam* community honestly believes that it is for the good of his community to change the system of inheritance into *makkathayam*, he must certainly do all that he could to attain that object. Personally, I believe that *makkathayam* is the goal that the *marumakkathayees* should keep in view, and I, therefore, strongly oppose both the amendments.

MR. N. RAMAKRISHNA PILLAI: I oppose both the amendments. I have the privilege of representing a very large number of the Ezhava population in north Travancore and I may say without fear of contradiction that I have an intimate knowledge of their views in regard to this measure. So far as I have been able to ascertain from the people, my impression is that they are undoubtedly in favour of the provision now put forward in this Bill, *i. e.*, the provision under discussion, which is the most contentious subject of discussion between the contending sections of the community. We are not entitled to assume that the *misravazhi* people, as a body, are against the enactment of this provision. We may safely assume that even among them there are a large number of people who are in favour of this measure. Further, there are also those among them who, having no self-acquisitions to be left behind for distribution, are more or less indifferent as to the course of the devolution of property now proposed. We may thus safely conclude that only a fraction even of the *misravazhi* people are opposed to the enactment of this clause. Reference has also been made in this connection to a number of petitions presented to this Council. It was contended—

DEPUTY PRESIDENT: These petitions have been dismissed,—thrown overboard.

MR. N. RAMAKRISHNA PILLAI: Arguments were based upon the fact that a number of petitions have been presented and that there is considerable opposition to the enactment of this provision. We are not aware where those petitions have come from, what those petitions contain and whether the persons purporting to have signed those petitions have really signed them. To my mind, a consideration of these petitions seems to be absolutely irrelevant in this connection. Two or three arguments have been advanced by those who brought forward these amendments. One of these was founded upon a general maxim that the majority should not impose their will upon the minority. This is no doubt a grand principle; but in social legislation, as in other matters, it is absolutely impossible to expect that there will be no minority

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[Mr. J. John Nidiry.]

at all. In such cases as this the majority are entitled to lead the minority especially in view of the fact that the majority is very great and that it includes almost all the educated members of the community. It is also on account of the different standpoints from which the question is viewed that there appears to be a violation of this principle It is not a fact that the majority is trying to impose their will upon the minority; the question is whether a small minority should be permitted to arrest the progress of the majority. The majority are undoubtedly in favour of this measure, and the minority are bound to follow the majority. That ought to be the aspect from which the question has to be viewed.

It was then contended that only the customs observed by the community should be codified and that no new ideas should be imposed upon the people. If our courts had allowed the formation and recognition of customs in these matters, legislation would have become unnecessary. The rigidity of the existing law would not allow the formation or growth of any custom at variance with the law, and legislation is the only course now open to us to remedy these defects.

Another argument was based upon the fact that, as the *anandaravars* also joined in making the acquisitions, it would be inequitable to deprive them of a share of such acquisition. It is not a fact, at least so far as my part of the country is concerned, that the *anandaravars* help in making the acquisition. In north Travancore, the wife always lives with the husband and does work for him, so that, if anyone has any claim for a share in the acquisition, it is the wife and not any others. Indeed, this practice has even received recognition from the courts. Generally, the family consists of the husband, the wife and the children living and working together. It is very rare to find a woman and her children living in her *tarwad* house and working for the *tarwad*. Under these circumstances, it seems to me unjustifiable to assume that the *tarwad* is equitably entitled to a share in the acquisitions of a member.

The principle that the majority should not impose their will upon the minority—

DEPUTY PRESIDENT: I think you have referred to that already.

MR. N. RAMAKRISHNA PILLAI: Yes; but I am now referring to it for another purpose. This principle has been too strictly applied to the *marumakkathayam* people. The *marumakkathayam* system is built upon the principle that the majority should not impose their will upon the minority. If there happens to be a single dissentient member, the whole *tarwad* will have to obey the wishes of that member. I think the system which works upon such a principle should go and that a new and a sounder system should hereafter be accepted. With these words, I oppose both the amendments.

MR. J. JOHN NIDIRY: Sir, we are at a very important section of the Ezhava Bill. I was a member of the Select Committee and my

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views on the point have already been recorded. I do not, therefore, wish to add anything to what I have already said in the majority report and in my dissenting minute. But I am obliged to speak a few words in regard to certain representations made to me and the misapprehensions exhibited since the publication of the Select Committee's report by a few Ezhava friends who follow the *misravazhi* system of inheritance, soon after the publication of the report. I happened to meet a gentleman in Trivandrum who came and told me: "You have brought disaster and ruin to our community". I was thunder struck. He said: "You were a member of the Select Committee appointed for the consideration of the Ezhava Bill. We never expected that you would venture to write such a thing in the Select Committee's report". I asked him, "Is it in regard to individual partition that you object?" He said: "That is all right". But he told me that he expected that I would differ from the majority report in regard to the *misravazhi* system which was done away with. I said I seriously considered the question and came to the same conclusion as my friends on the committee. Since then, I have not heard any complaint from gentlemen who follow the *misravazhi* system. After coming to Trivandrum to attend this meeting of the Council, I happened to meet a few gentlemen who follow that system and they told me that my position in the Council was a responsible one and that I should bestow sufficient thought over the points mentioned in the printed petitions presented to the Council members. They said that the *misravazhi* system was the ideal system that should be followed by the community in any part of the country and that it had many advantages over the other systems.

DEPUTY PRESIDENT: I daresay you convince me of your position in a sentence.

MR. P. K. NARAYANA PILLAI: Is it to introduce the *misravazhi* all over the world? (*Laughter.*)

MR. J. JOHN NIDIRY: I do not know. Since many of my friends have paid special attention to this aspect of the question, I need not dwell upon it at length. In order that my *misravazhi* friends may not misunderstand me as to the representations made to me, I have to say that even after careful consideration I am not able to change my position; yet no other member in this Council could be more sympathetic towards those gentlemen than myself. When the Christian Succession Bill was under consideration, I was one of those who opposed it vehemently; and I also feared, like Mr. Paramesvaran and his friends, that such a measure would be bringing danger to the Christian community. But, I may assure my *misravazhi* Ezhava friends that, since the passing of that legislation, we are all right. That fact, I hope, will be a consolation to my friends. I may also assure them that the result of that legislation has not adversely affected anybody in my community.

MR. K. P. RAMAN PILLAI: I rise to oppose these amendments mainly with a view to remove the misapprehension that, because I happened to be the *via media* of certain petitions to reach this Council, I

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[Deputy President.]

am precluded from voting against the position maintained by the petitioners. Firstly, nobody has assured me about the veracity of these petitions. (*Laughter*). They came by registered post, and I have submitted them to the Council. Even had anybody taken the trouble to assure me of their veracity, I would not have cared to accept that opinion, for I have made no pledges at the time of my election as to how I should vote when this question comes up before the Council. Hence, I am free to vote according to my conscience. My opinion has been already expressed and is known to the members who may have read section 13 of the Nair Regulation Amendment Bill. I am clearly of opinion that these amendments are mischievous, (*laughter*), and subversive of the best interests of a progressive community. Evidently there seems to be some confusion regarding the provision of the section itself, as may be gathered from the amendment brought forward by Mr. Rangaswami Aiyangar. Section 15 proposes to legislate for a person who may neglect to prepare a will or who may put it off for the last moment, or in whose case the last moment may come too suddenly for him to prepare one. If such a person is asked to come to the Dewan Peishkar's office,—

MR. V. SUBBA AIYAR: The amendment does not say so. He must do it within six months of the passing of the Regulation and not when he is dying.

MR. K. P. RAMAN PILLAI: He may not put it off still further. In spite of his wishes the property will have to be divided equally between *anandaravars* and the wife and children in the case of the mixed system.

I heard much about this statistics which the Ezhava Law Committee collected about seven years ago. If we accept Mr. Velu Pillai's extract from Bryce regarding the formation of public opinion, I am sure a progressive community like the Ezhavas will be found to have changed its opinion. If statistics were to be collected to-day, I believe, there would be only a microscopic minority to support this *misravazhi* system, and that such rapid conversion is possible may be gathered from the attitude of Mr. Velu Pillai himself, who, in the course of fifteen minutes, decided to vote against the amendment. (*Laughter.*)

MR. T. K. VELU PILLAI: I want Mr. Raman Pillai to withdraw his remarks. I did not commit myself to any position. I merely wanted to have the question discussed and explained in simple language. Mr. Raman Pillai insinuatingly remarks that I changed my position.

DEPUTY PRESIDENT: I do not put that construction. No insinuation is intended, I believe. He is in order.

MR. A. HOOGEWERF: Nothing of the kind was intended, I believe.

DEPUTY PRESIDENT: You are bringing in dangers where there are none.

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Mr. K. P. RAMAN PILLAI: I do not mean all that. I said that, in the course of fifteen minutes, opinion, as in the case of our friend, is likely to change. (*Laughter* from the visitors' gallery also).

DEPUTY PRESIDENT: Gentlemen on the other side are not expected to demonstrate.

Mr. T. K. VELU PILLAI: He is still persistently making that assertion. I am repudiating it.

DEPUTY PRESIDENT: What is it that you are repudiating?

Mr. T. K. VELU PILLAI: That I change my opinion in fifteen minutes. I did not change my opinion. In my speech, I kept the question advisedly open.

DEPUTY PRESIDENT: You can accept that course. Proceed.

Mr K. P. RAMAN PILLAI: We find that within fifteen minutes Mr. T. K. Velu Pillai was able to change his opinion or form one so as to vote against the amendments. So, the members of the Ezhava community who are groaning under the evils of the system would change their opinion far sooner. If, therefore, statistics be taken to-day, every one of them excepting, perhaps, Mr. Paramesvaran, would be found to be in favour of absolute *makkathayam*.

The arguments advanced in support of *misravazhi* are all very old. I am sure no supporter of that unnatural system will be able to find any new argument. Those arguments have been advanced by very many men very many times and effectively met.

There is one other point in regard to the second amendment. It was said that the rights of the minority ought to be respected. We hear much of the rights of minorities in the Near East, the right of self-determination and so on. But I think the analogy when carried to the minority of Ezhavas who follow the mixed system of inheritance would be false, because, if we expect unanimity in a social matter, we shall never be able to move one step forward. The function of the law is to coerce those who are small in numbers and who cannot understand the best interests of the community.

DEPUTY PRESIDENT: മിസ്റ്റർ പി. പരമേശ്വരൻ, നിങ്ങളുടെ അമെൻഡ്മെൻറിനെപ്പറ്റി മറുള്ളവർ സംസാരിച്ചതിനെക്കുറിച്ചും മിസ്റ്റർ. രംഗസ്വാമിഅയ്യങ്കാർ കൊണ്ടുവന്നിട്ടുള്ള അമെൻഡ്മെൻറിനെപ്പറ്റിയും പറഞ്ഞുകൊള്ളുക.

Mr. P. PARAMESVARAN: ഈ സഭയിലെ മാന്യമെംബറന്മാർ എതിർവാദം ചെയ്ത സംഗതികൾ എന്തെല്ലാമാണെന്ന് ഇംഗ്ലീഷ് ഭാഷാജ്ഞാനമില്ലാത്ത എന്നെ മനസ്സിലാക്കിത്തരേണ്ടതു ഈ സഭയിൽ നിയമപ്രകാരം അധികാരമുള്ളവരുടെ ചുമതല ആയിരിക്കെ അപ്രകാരം ചെയ്യാതെ എന്റെ മറുപടിക്ക് ആവശ്യപ്പെട്ടതു കഷ്ടമാണ്.

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[Mr. P. Parameswaran.]

DEPUTY PRESIDENT: അമെൻഡ്മെന്റിനെപ്പറ്റി അതു കൊണ്ടുവരുന്ന മെമ്പക്ക് മറുപടി പറവാൻ അവകാശം കൊടുത്തേ തീരൂ എന്ന നിബ്ബന്ധമായിട്ട റൂൾസിൽ ഇല്ല. എങ്കിലും നിങ്ങൾക്ക അവകാശം കിട്ടിയാൽ വല്ലതും പറവാനുണ്ടെങ്കിൽ അതിലേക്ക അവസരം തരണമല്ലൊ എന്നുവച്ചാണ ഞാൻ നിങ്ങളോടപ്പോൾ പറഞ്ഞത്. നിങ്ങൾ മുൻപുപറയാത്ത അഭിപ്രായങ്ങളെ പറഞ്ഞുകൊള്ളുക.

MR. P. PARAMESVARAN: അതിലേക്ക ഞാൻ നന്ദിപറയുന്നു. എന്റെ അമെൻഡ്മെന്റിനു വിരോധമായി മാന്യമെമ്പറന്മാർ എന്തുതന്നെ പറഞ്ഞിരുന്നാലും അതുകൊണ്ട സ്വീകാര്യയോഗ്യമല്ലെന്നു മാത്രം വിനയപൂർവ്വം ഞാൻ അറിയിച്ചുകൊള്ളുന്നു. എന്നുതന്നെയുമല്ല, ഈഴവബില്ലിനെക്കുറിച്ച് ലാക്കമ്മറിക്കാർ ചെയ്തിട്ടുള്ള പ്രവൃത്തികൾ എല്ലാം തന്നെ മിശ്രദായക്കാരായ ഈഴവമഹാജനങ്ങളുടെ ഭൂരിപക്ഷാഭിപ്രായത്തെ ലക്ഷ്യമാക്കാതേയും ശരിയായ വിചാരണ നടത്താതേയും ചെയ്തിട്ടുള്ളതാണെന്ന് അവർ ബോധിപ്പിച്ചിട്ടുള്ള പല ഹർജികളിലും പറഞ്ഞിരിക്കുന്നു. അവർ ലാക്കമ്മറി വിചാരണ നടത്തിയ കാലത്തു മൂവായിരത്തിൽ ചിലപ്പോൾ ജനങ്ങൾ ചേർന്ന ഹർജികൊടുത്തിരുന്നു. ലാക്കമ്മറിയുടെ പ്രവൃത്തികൾ ന്യായമായിട്ടുള്ളവ അല്ല എന്ന് അതിൽ വ്യക്തമായി പറഞ്ഞിരുന്നു. ലാക്കമ്മറിയാകട്ടെ ഈ ഹർജി വിശ്വാസയോഗ്യമല്ലെന്ന റിപ്പോർട്ടിൽ പ്രസ്താവിച്ചിരിക്കുന്നു.

റിപ്പോർട്ട വെളിക്കു വന്നതിൽ പിന്നീട മിശ്രദായക്കാർ യോഗം കൂടി ഹർജി കൊടുത്തു. അങ്ങനെ ഒരു ഹർജി കിട്ടീട്ടില്ലെന്ന സെലക്ററ് കമ്മറിയിലെ മെമ്പറായ ശ്രീമാൻ രാമൻതമ്പി അവർകൾ ആ റിപ്പോർട്ടിൽ തന്നെ വിളിച്ചുപറഞ്ഞിരിക്കുന്നു. ഈ സ്ഥിതിക്ക ഞങ്ങളുടെ ഹർജിയെ മെമ്പറന്മാരെ ശരിയായ കാലത്തു കാണിച്ചിട്ടുകൂടി ഇല്ല എന്നു ഞാൻ ഊഹിക്കുന്നു.

മൂന്നാമതായി, ഈ സഭ മുമ്പാകെ എല്ലാ താലൂക്കുകളിലും നിന്നു ഹർജികൾ സമർപ്പിച്ചിട്ടുണ്ട. ഈ ഓരോ താലൂക്കിലും വോട്ടിന് അധികാരമുള്ള ഈഴവമഹാജനങ്ങൾ എത്രപേർ ഉണ്ടെന്നും അവരിൽ എത്രപേർ ഈ ഹർജികളിൽ ഒപ്പിട്ടിട്ടുണ്ടെന്നും താഴെ പട്ടികയിൽ കാണിച്ചിരിക്കുന്നു. ആ പട്ടിക ഇതിനോടുകൂടി ഹാജരാക്കുന്നുണ്ട്. വോട്ടിനു അ

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ധികാരമുള്ള മിശ്രഭായ ഈഴവരിൽ നൂറിന് എൺപതിൽ കുറയാതെ എണ്ണം ആളുകൾ ഈ ഹജ്ജികളിൽ ഒപ്പിട്ടിട്ടുണ്ടെന്നു കാണാവുന്നതാണ്.

	ഈഴവരുടെ എണ്ണം.	ഹജ്ജിയിൽ ഒപ്പിട്ടിട്ടുള്ളവരുടെ എണ്ണം.
നെടുമങ്ങാട്	൧൯൫	൧൭൦
തിരുവനന്തപുരം	൧൯൬	൧൬൦
നെയ്യാറ്റിൻകര	൧൯൯	൧൮൧
തിരുവനന്തപുരം റൌണ്ട്	൭൭	൬൮
വിളവങ്കോട്	൮൧	൭൦
കൊല്ലം	൭൮൮	൬൬൭
കൊട്ടാരക്കര	൮൭൮	൭൧൬
പത്തനാപുരം	൧൬൩	൧൦൯
ആകെ	൨൯൭൮	൨൭൦൮

ആകെ ൨൯൭൮ മിശ്രഭായക്കാരായ വോട്ടർമാർ ഉണ്ട്. അവരിൽ ൨൭൦൮ പേർ അല്ലെങ്കിൽ ൨൭൦-നു മുകളിൽ ഈ ഹജ്ജിയിൽ ഒപ്പിട്ടിട്ടുണ്ട്. അവരുടെ അപേക്ഷയെ അടിസ്ഥാനമാക്കിയാണു ഞാൻ അമെൻഡ്മെൻറ് സമർപ്പിച്ചിട്ടുള്ളത്. ഇവർ ഒപ്പിട്ടിട്ടുള്ള ലിസ്റ്റിന്റെ തലക്കെട്ടിൽ ഓരോ താളിലും ഇപ്രകാരം അച്ചിട്ടു ചേർത്തിട്ടുണ്ട്.

"ഒന്നാമതു പുറം തുടങ്ങി ചേർത്തിരിക്കുന്ന ഈ ഹജ്ജിയെ ഞങ്ങൾ ഓരോരുത്തരും വായിച്ചു കേട്ടു മനസ്സിലാക്കി. അതിൽ പ്രാചീനകാലംമുതൽക്കേ മിശ്രഭായക്കാരായ ഞങ്ങൾ അനുഭവിച്ചുവരുന്ന ന്യായക്രമത്തെ വ്യക്തപ്പെടുത്തി പറഞ്ഞിരിക്കുന്നു. ഞങ്ങൾക്കു മേലും മിശ്രഭായവും തന്മൂലം ഉദ്യോഗവും തന്നെ ഈഴവബില്ലിൽ ഈ ഹജ്ജിപ്രകാരം തിരുത്തി കിട്ടണം. അല്ലാത്തപക്ഷം ഈ ബില്ലിൽനിന്നു മിശ്രഭായ ഈഴവരായ ഞങ്ങളെ ഒഴിവാക്കി കിട്ടണമെന്നു ഞങ്ങൾ ഓരോരുത്തരും തനിത്തനിയായും ഒന്നായും അപേക്ഷിച്ചുംകൊണ്ടു താഴെ പേരെഴുതി കൈയൊപ്പിട്ട ഈ ഹജ്ജിയിൽ അംഗങ്ങളായി ചേർന്നിരിക്കുന്നു." എന്നിട്ടും എന്റെ മാന്യസ്നേഹിതൻ മിസ്റ്റർ കുമാരൻ മുൻപതിവുപോലെ ഞങ്ങളേയും മാന്യസഹോദരങ്ങളേയും തെറ്റിദ്ധരിപ്പിക്കാനായി ഈ ഒപ്പുകൾ ശരിയായി അറിഞ്ഞു ഒപ്പിട്ടിട്ടുള്ളതല്ലായെന്ന് ഈ സഭയെ വായി അറിയിച്ചു. സത്യസ്ഥിതി അറിവാൻ മാനസഹോദരങ്ങൾക്കു ശക്തി ഇല്ല എന്ന് അദ്ദേഹം വിചാരിച്ചുപോയതിനെപ്പറ്റി എനിക്കു അത്ഭുതമൊന്നും തോന്നുന്നില്ല. ഈ മഹ-

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[MR. P. Parameswaran.]

നുമ്മാർ ഈ ഹർജികളെപ്പറ്റി ഇപ്രകാരം ദോഷാരോപണം ചെയ്യുന്നതു ഏതുവിധത്തിലും തന്റെ വാദം നേടണമെന്നുള്ള കരുതലിന്മേലാണ്. ഹർജികൾ ശരിയായിട്ടുള്ളവ അല്ല എന്നുള്ള പ്രസ്താവന അവരുടെ സഹോദരന്മാർ അവരുടെ വാക്കുകളെ മാത്രം പൂർണ്ണമായി വിശ്വസിക്കണമെന്നും എന്നെപ്പോലെയുള്ള സാധുക്കളുടെ സ്വന്തമായ വാക്കുകളെ നിങ്ങൾ അവിശ്വസിക്കണമെന്നും ഉള്ള കരുതലോടു കൂടിട്ടാകുന്നു. ഞാൻ ഈ സഭാസമക്ഷം ബോധിപ്പിക്കുന്ന യാതൊരു സംഗതിയേയും വിശ്വാസയോഗ്യമല്ലാതാക്കി ഈ സഭ തള്ളുകയില്ല എന്നാണ് എന്റെ പൂർണ്ണമായവിശ്വാസം. ഈ അവസരത്തിൽ മിശ്രദായക്കാരായ ഈഴവമഹാജനങ്ങൾ ഈ സഭയിൽ ബോധിപ്പിച്ചിട്ടുള്ള ഹർജിയിൽ നിന്ന് ഒരുഭാഗം നിങ്ങളെ വായിച്ചു കേൾപ്പിക്കാം.

DEPUTY PRESIDENT: ഹർജികൾ വായിക്കണമെന്നില്ല.

MR. K. P. RAMAN PILLAI: I read out the petition three times.

DEPUTY PRESIDENT: ഹർജി റിക്കാട്ട് ചെയ്തുപോയി.

MR. P. PARAMESVARAN: ഹർജിക്കാരുടെ അഭിപ്രായങ്ങൾ എന്റെ അഭിപ്രായം തന്നെ. കുറെഭാഗം വായിക്കാം.

൪-ാംഭാഗം—പിന്തുടർച്ചാവകാശം. വകുപ്പു ൫൭.

"ഒരു പുരുഷന്റെ സമ്പാർജ്ജിതസ്വത്തും പ്രത്യേകസ്വത്തും മൂഴവനും അയാളുടെ ഭാര്യയ്ക്കും മക്കൾക്കും ചെല്ലുന്നതാകുന്നു," എന്ന ഈ വകുപ്പിൽ പറഞ്ഞിരിക്കുന്നു.

ഒരു പുരുഷൻ ഭാര്യയേയും കുഞ്ഞുങ്ങളേയും രക്ഷിക്കാൻ കടപ്പെട്ടവനാണെന്നും അവരെ സ്നേഹിക്കയും രക്ഷിക്കയും താൻ മരിച്ചതിൽപിന്നീടു അവർക്കു കാലക്ഷേപത്തിനു വകയുണ്ടാക്കി കൊടുക്കുകയുംചെയ്യുന്നതു പ്രകൃതിസിദ്ധമായ ധർമ്മമാണെന്നും മരുമക്കവഴിക്കാരായ കേരളീയരിൽ ഞങ്ങളോളംമേറ്റു യാതൊരു വർഗ്ഗവും ഉണർന്നറിഞ്ഞിട്ടില്ല. ഞങ്ങൾ സഹജസിദ്ധമായ ഈ അവകാശത്തെ പ്രാചീനകാലം മുതല്ക്കേ അനുഭവിച്ചുവരുന്നവരാകുന്നു. മരുമക്കത്തായക്കാരായ മറ്റു ജാതിക്കാരിലും ഈ ഉത്തമഗുണത്തെ അനുഭവിക്കാത്തക്കവരാകുന്ന ഈവിധം നിയമം വേണമെന്നു അപേക്ഷിച്ചുകൊള്ളുന്നു. മിശ്രവർഗ്ഗക്കാരായ ഈഴവരുടെ ഇടയിൽ ഇപ്പോൾ നടപ്പിലിരിക്കുന്ന ആചാരത്തെ നിയമദൃഷ്ട്യാ സാധുവാക്കണം എന്നാകുന്നു ഞങ്ങളുടെ അപേക്ഷ. ഇതാണ് ഞങ്ങളുടെ അപേക്ഷയുടെ സാരാംശം.

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വേണ്ട. ഇതിനു വിപരീതമായിട്ടാകുന്നു ലാകമ്മീഷൺ അഭിപ്രായപ്പെട്ടിരിക്കുന്നതു്. ഇതിലേക്കു ലാകമ്മീഷൻ പറഞ്ഞിരിക്കുന്ന അഭിപ്രായം സാധുവല്ല.

മിശ്രവഴിക്കാർ ഇതേവരെ ആചരിച്ചുവന്നിരുന്ന നടപ്പു സമുദായാഭിവൃദ്ധിയുടെ ഒരു ദശയിൽ നല്ലതായിരുന്നുവെന്നും ഇപ്പോഴത്തെ അവസ്ഥാഭേദങ്ങൾക്കു വിരുദ്ധമാണെന്നും അതുകൊണ്ടു നടപ്പിനെ മാറ്റി ഭാര്യയേയും മക്കളേയും ഒരുവന്റെ സ്വത്തു മുഴുവനിലേക്കും അവകാശികൾ ആക്കേണ്ടതാണെന്നും ആകുന്നു ഈ റിപ്പോർട്ടിന്റെ സാരം.

ലാക്കമ്മിറ്റിയുടെ പ്രവൃത്തി നിഷ്പ്രയോജനമല്ല. ഒരുത്തന്റെ മുഴുവൻ സ്വത്തും ഭാര്യയ്ക്കും മക്കൾക്കും പ്രയോജനപ്പെടുത്തണം എന്നു ലാക്കമ്മിറ്റിയിലെ മെംബറന്മാർ മുമ്പിൽക്കൂട്ടി കരുതുകയും അപ്രകാരംതന്നെ നിയമം ഉണ്ടാക്കണമെന്നു് ആദ്യമേ തന്നെ സങ്കല്പിക്കുകയും ചെയ്തു. ഈ സങ്കല്പത്തെ അടിസ്ഥാനമാക്കിയും ഇതിനെ ലക്ഷ്യമാക്കീട്ടുമാണ് അവർ സാക്ഷിവിസ്താരത്തിനുള്ള ചോദ്യങ്ങൾ തയ്യാറാക്കിച്ചതു്. അവരുടെ ചോദ്യങ്ങൾക്കു മറുപടി കിട്ടിട്ടുള്ളതു് മൂന്നുവിധം തരക്കാരിൽ നിന്നാണ്. (ക) അവർനേരിട്ടു വിസ്തരിച്ച സാക്ഷികൾ, (ഖ) തനിത്തനിയായി മറുപടി എഴുതി അയച്ചുവർ, (ഗ) അനേകം അംഗങ്ങൾ ഒന്നിച്ചുചേർന്നിരുന്നു ഗുണദോഷങ്ങളെ ചിന്തിച്ചു് ചോദ്യങ്ങൾക്കു മറുപടി ഗാഢാലോചനയിന്മേൽ എഴുതി ഉണ്ടാക്കി എല്ലാവരും ഒപ്പിട്ടയച്ചുവർ. ഈ മൂന്നുകൂട്ടം സാക്ഷികളുടെ അഭിപ്രായങ്ങളെ നോക്കി പരിശോധിച്ചതിൽ ലാക്കമ്മിറ്റി തങ്ങളുടെ പൂർവ്വസംകല്പത്തിനു് അനുകൂലമായി പറഞ്ഞവരുടെ അഭിപ്രായത്തെ മാത്രം ബലവത്താക്കി എഴുതുകയും, തദ്വിപരീതന്മാരുടെ അഭിപ്രായത്തിന്റെ സാധുതയെ തീരേ വകവയ്ക്കാതെ തള്ളുകയും ചെയ്തിരിക്കുന്നു. ലാക്കമ്മിറ്റിയുടെ റിപ്പോർട്ടിലെ ൨൬-ാം പാരാനോക്കുക. ക-മത്തെ ഇനക്കാരായ നേരിട്ടു വിസ്തരിച്ച സാക്ഷികളിൽ ക ൦ ൦ നു മൊത്തം പേർ ഈ അഭിപ്രായത്തിനു അനുകൂലരാകയാൽ ഇതിനെ അംഗീകരിച്ചിരിക്കുന്നതായി പ്രസ്താവിച്ചിരിക്കുന്നു."

DEPUTY PRESIDENT: ഇപ്പോഴത്തെ വാദം ബില്ലിനെപ്പറ്റിയാണ്. നിങ്ങൾ ലാകമ്മിറ്റിയുടെ റിപ്പോർട്ടിനെ ദൂഷിക്കുന്നതുകൊണ്ടു ഫലമില്ല. ഇപ്പോഴത്തെ ബില്ലു സെലക്ട് കമ്മിറ്റിയിൽനിന്നും ഉത്ഭവിച്ചിട്ടുള്ള ബില്ലാണ്. അതു ലാക്കമ്മിറ്റിയിൽ നിന്നും വന്നിട്ടുള്ളതല്ല.

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[Mr. P. Parameswaran.]

MR. P. PARAMESVARAN: ലാകമ്മിറ്റിയിൽ ഇരുന്ന മെംബറന്മാർ തന്നെ സെലക്ററു കമ്മിറ്റിയിലും മെംബറന്മാർ ആയിരുന്നു.

DEPUTY PRESIDENT: നിങ്ങളുടെ അഭിപ്രായം പറഞ്ഞു സഭയുടെ ഭൂരിപക്ഷക്കാരെ ധരിപ്പിച്ചാൽ സഭ അതിനെപ്പറ്റി തീരുമാനിക്കും എന്നല്ലാതെ ലാക്കമ്മിറ്റിയെ ദൂഷിച്ചതുകൊണ്ടായില്ല. നിങ്ങൾക്ക് അവകാശം തന്നിട്ടുള്ളതു് മറ്റുള്ളവർ പറഞ്ഞിട്ടുള്ളതിനു സമാധാനം പറവാനുണ്ടെങ്കിൽ അതു പറവാനായിട്ടാണ്. ആ ഭാഗം മനസ്സിരുത്തിക്കൊണ്ടു പറഞ്ഞുകൊള്ളുക. ഹജ്മുഴുവനും വായിക്കേണ്ട അതിലുള്ള വാദങ്ങളെ പറയുക. എന്തെന്നാൽ ഹജ് വാസ്തവമല്ലെന്നും ചിലർ പറഞ്ഞിട്ടുണ്ട്.

MR. P. PARAMESVARAN: ഹജ് മുഴുവനും വായിക്കുന്നില്ല. കുറെമാത്രമെ വായിക്കുന്നുള്ളൂ.

"അതുകെ വ്യ ാ പേരെ മുഖത്താവിൽ വിസ്തരിച്ചതിൽ ന്യ ാ പേർ ഈ വിധം അഭിപ്രായപ്പെട്ടിരിക്കുന്നു. ഈ ന്യ ാ പേരിൽ തന്നേയും മിശ്രവഴിക്കാരായ സാക്ഷികളുടെ എണ്ണം തുലോം തുശ്ചമാകുന്നു. അതെ വിസ്തരിച്ച വ്യ ാ പേരിൽ മിശ്രവഴിക്കാരായ സാക്ഷികൾ ഛ ാ പേരെയുള്ളൂ. ഛ ാ എണ്ണം മിശ്രവഴിക്കാരുടെകൂട്ടരിൽ മുഴുവൻ സ്വത്തും കൊടുക്കണമെന്നു പറഞ്ഞിട്ടുള്ള സാക്ഷികൾ ഥ പേർക്കധികമില്ല. അതായതു് വ്യ ാ ആളുകളിൽ ഥ പേരെയുള്ളൂ. മറുവടി തനിത്തനിയായി എഴുതികൊടുത്തവർ ഥ പേരുണ്ട്. ഇവരിൽ ൫ പേർ മാത്രമെ മുഴുവനും കൊടുക്കണമെന്നു പറഞ്ഞിട്ടുള്ളൂ. മൂന്നാമത്തെ സാക്ഷികാരെയാകട്ടെ ലാക്കമ്മിറ്റി അവിശ്വസനീയരായി തള്ളിയിരിക്കുന്നു." ഹജിക്കാരിൽ ഒപ്പിട്ടിരിക്കുന്നവരുടെ എണ്ണം തുലോം കുറഞ്ഞതു തന്നെ ആണെന്നു വരികിലും ഹജിയിൽ എഴുതിയിരിക്കുന്ന സംഗതി ഇന്നതാണെന്നു അറിഞ്ഞിട്ടല്ല ഇവർ ഒപ്പിട്ടിട്ടുള്ളതെന്നും അതുകൊണ്ട് എണ്ണത്തെ കണക്കുകൂട്ടി ഭൂരിപക്ഷാഭിപ്രായം ഏതാണെന്നും നിണ്ണയിക്കുന്നതിൽ ഇവരുടെ എണ്ണത്തെ ഗണിച്ചുകൂടാ എന്നും ലാക്കമ്മിറ്റിക്കാർ അഭിപ്രായപ്പെട്ടിരിക്കുന്നു. നേരിട്ടു വിസ്തരിച്ച സാക്ഷികളുടെ കായ്ത്തിൽ ഭൂരിപക്ഷം എന്ന സംഗതിക്കു വലുതായ വിലവയ്ക്കുകയും, രണ്ടാമത്തെ ഇനം സാക്ഷികളുടെ കായ്ത്തിൽ ഭൂരിപക്ഷത്തെപ്പറ്റി പ്രസ്താവിക്കാതെ വിട്ടേക്കയും, മൂന്നാമത്തെ ഇനക്കാരുടെ എണ്ണത്തെ സ്വീകരിച്ചാൽ തങ്ങൾ മുൻകൂട്ടി കരുതി ഉറപ്പിച്ചിട്ടുള്ള സംകല്പത്തിനു വിപരീത

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മായിരുപ്പുകയെന്ന നിശ്ചയം വരികയാൽ അതിനു ദൃഷ്യമുണ്ടാക്കി തള്ളുകയും ആകുന്ന ലാക്കമ്മിറ്റി ചെയ്തിരിക്കുന്നതു്. മൂന്നാമത്തെ ഇനത്തിൽ ഉൾപ്പെട്ടവരുടെ സംഖ്യാബലത്തെ മനഃപൂർവ്വം ദോഷാരോപണം ചെയ്തു് ഈ വിധം തള്ളിയില്ലെങ്കിൽ ഭൂരിപക്ഷാഭിപ്രായത്തെ അടിസ്ഥാനമാക്കിയാകുന്ന ഇപ്രകാരം തീച്ചപ്പെടുത്തിയിരിക്കുന്നതു് എന്നു വരുത്താൻ കഴിയുന്നതല്ല. ഇപ്രകാരം ചെയ്തതാണെന്ന സമ്മതിയ്ക്കും പ്രസ്താവിക്കുന്നതിനുള്ള കാരണം പറയാം. പ്രസ്തുത ഹാജികളിൽ ഒപ്പിട്ടിട്ടുള്ളവരെല്ലാവരും കൂട്ടം കൂട്ടമായി ലാക്കമ്മറിയുടെ മുമ്പാകെ ഹാജരായി തങ്ങളെ നേരിട്ടു വിസ്തരിച്ചു കൊള്ളണം എന്നു ബോധിപ്പിച്ചതിൽ ഇവരിൽ ഓരോരുത്തനും ഹാജി നല്ലപോലെ മനസ്സിലാക്കി ഒപ്പിട്ടിട്ടുള്ളവർ തന്നെ എന്നു ഇവരോടു വിസ്താരരൂപത്തിലല്ലാതെ ചോദിച്ചു മനസ്സിലാക്കിയതിന്റെ ശേഷം കമ്മിറ്റിമെംബർമാർ ഇവരിൽ ഓരോരുത്തനേയും തനിത്തനിയായി വിസ്തരിച്ചിട്ടു ആവശ്യമില്ലെന്നും ഒന്നൊരണ്ടു പ്രധാനമാരെമാത്രം വിസ്തരിച്ചു് അവർ പറയുന്ന അഭിപ്രായത്തെ ഈ കൂട്ടത്തിൽ ചേർന്ന ഓരോരുത്തന്റേയും അഭിപ്രായമായി സ്വീകരിച്ചു രേഖപ്പെടുത്തികൊള്ളാമെന്നു് ഇവരോടു് ഉറപ്പുപറഞ്ഞുംകൊണ്ടു ഇവരെ വിസ്തരിക്കാതെ പറഞ്ഞയച്ചു. അപ്രകാരം നേരിട്ടു വിസ്തരിച്ചതിൽ തെളിവായ അഭിപ്രായം തങ്ങളുടെ പൂർവ്വസംകല്പത്തിനു വിരോധമാണെന്നു ലാക്കമ്മറിക്കാർക്കു ബോദ്ധ്യംവന്നു് അവർ ഹാജിക്കാരെ വിസ്തരിക്കാതെ അയച്ചപ്പോൾ അവരോടു പറഞ്ഞിരുന്ന വാക്കിനേയും ദൂരെതള്ളി. വിസ്താരത്തിൽ നടന്ന കഥ ഇതാണു്. അതുകൊണ്ടു മുഴുവൻ സ്വത്തുക്കളും മക്കൾക്കു കൊടുക്കണമെന്നുള്ള തീർപ്പിനു് അടിസ്ഥാനമായി പറഞ്ഞിരിക്കുന്ന ഭൂരിപക്ഷാഭിപ്രായം എന്നൊന്നാമത്തെ കാരണം തെറ്റായ കാരണമാണു്. ശരിയായ വിധത്തിൽ കണക്കു നോക്കിയാൽ സ്വാർജ്ജിതസ്വത്തു മുഴുവനും ഭാര്യയ്ക്കും മക്കൾക്കും കൊടുത്തുകൂടാ എന്നുള്ള അഭിപ്രായക്കാരാണു് ഭൂരിപക്ഷക്കാർ എന്നു വെളിവാകും. ഈ സ്ഥിതിക്കു ഭൂരിപക്ഷവാദം നിഷ്പക്ഷപാതമാകുന്നതെങ്ങനെ?

DEPUTY PRESIDENT: ഇനി നിങ്ങൾ മിസ്റ്റർ രംഗസ്വാമിഅയ്യങ്കാരുടെ അമെൻഡുമെൻറിനെപ്പറ്റി പറഞ്ഞുകൊള്ളുക.

MR. P. PARAMESVARAN: ആ അമെൻഡുമെൻറു സ്വീകരിക്കുന്നില്ല. അതിനെ സ്വീകരിക്കുന്നപക്ഷം ഞാൻ ഞങ്ങളുടെ ജനങ്ങളുടെ ഇടയിൽ ഒരു ശത്രുവായിരിക്കും.

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[Rao Bahadur K. V. Rangaswami Aiyangar.]

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Sir, I must thank you for your kindness in allowing me an opportunity to speak again and explain the position which I have taken, particularly in view of the number of invalid analogies, if I may be permitted to say so, and the irrelevant arguments, that have been brought forward, ignoring the contentions on which I based my amendment before the House. It is not relevant to my purpose to deal with all the statements made in the course of the debate, either in support of my position or in contravention of it. I merely wish to make a brief reference to two or three statements that have been made, which I think to some extent obscure the issue. May I point out, Sir, that, when I took objection to the section as it now stands and suggested the amendment, I did so on the ground that it was not right for any section of the community, whether it is a large section or a small section, to impose its views of what it considers to be for the progress of the community upon other and unwilling members of the community? In regard to the position which I took, and which I still maintain to be a sound position, I say it has been accepted by most of the civilised Governments, including the Government of India and the subordinate Provincial Governments. There has been something like a decided negation of this principle in the speeches delivered by the gentlemen who have not been seeing eye to eye with me in this matter. That, however, is one of the fundamental questions of difference of opinion, on which it is impossible to come to any agreement. The only thing that I now wish to say, in that connection, is that it has been all through suggested that I have been asking for such unanimity of social opinion from the community as is manifestly impossible. Therefore, it has been said that, by asking for an impossible thing, I also put pressure upon the members, and that I should not apply through the Legislative Council. May I point out that throughout the line of argument on the other side, there has been a certain amount of confusion? All that I have been asking for is not to have a kind of compulsory law applicable to all people alike, to those who are willing to accept the law and to those who are not willing to accept it. I have not asked that persons, who want progress, should not be given opportunities for enabling them to achieve their ideal. What I object to is that a community, or a section of a community, should, in the name of the State or the legislature, give what it regards as progress to other communities, imposing its own unfettered discretion upon the latter who do not want it. Some time back there was an allusion to a certain character in Dickens, from a speaker on the other side.

May I point to another character in Dickens, from *Nicholas Nickleby*, a character, who used to inflict on all his pupils alike a weekly dose of nauseating medicine, of his own concoction, whether they wished to have it or not. (I refer to Mr. Wackford Squeers) under the pious delusion that it would improve their health and morals! I am strongly reminded of that character, when an individual member

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comes forward and says that what has been good, in his view, for other communities, is bound to be equally good for the Ezhava community, that *he* has satisfied himself that a considerable amount of good will accrue to the community, and that, therefore, such members of the community as are not so fortunate as to be convinced of his conclusion should still adopt it. We have also had the extraordinary proposition put forward before this House to-day—I have heard the extraordinary suggestion that the legislature exists for the purpose of coercing a minority and making that minority accept the will of the majority. I cannot repudiate an opinon of that nature with a sufficient degree of warmth and vigour. Such opinion is contrary to the practice of every legislature of which I have any knowledge, except in cases where laws are made for the preservation of the State and for the preservation of public morals and are, as people say, for justice, equity and good conscience. I daresay that in the case of opinions as in the case of other things there is a law of *karma* which will make wrong opinions come home to those who propagate them.

Mr. K. Paramesvaran Pillai did me the courtesy to traverse my argument, by a reference to *sati*, as one of those cases in which the sentiments of the Hindu community were set at nought by the legislature when it passed the *Sati Act*. In this connection, I should like to draw his attention to a certain statement which he will find in B. K. Acharaya's "Codification in British India", page 289. There, it will be found, from the preamble of the Act itself, that Mr. Paramesvaran Pillai's proposition is wrong. "The practice of *Sati*," runs the preamble of Regulation XVII of 1829, "is revolting to the feeling of human nature. It is nowhere enjoined by the religion of the Hindus as an imperative duty. On the contrary, a life of purity and retirement on the part of the widow is more especially and preferably incalculated, and by a vast majority of that people throughout India, the practice is not kept up nor observed. In some extensive tracts, it does not exist."

DEPUTY PRESIDENT: Is it necessary to go into details with reference to that?

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: It *is* necessary with reference to that analogy which has been set out by Mr. K. Paramesvaran Pillai. He said that the legislature interfered and legislated contrary to what was the Hindu practice, and that, therefore, in this case also, the legislature is equally competent to act on his suggestion. *My* suggestion is that, from the expressions in the preamble to the Regulation and the opinion which is also found in regard to every other similar piece of legislation, in all these cases Government considered that it was merely giving effect to the existing opinion and wishes of the community in legislating as it did. I need not quote other instances, which are to be found in the succeeding pages 290-294 of Mr. B. K. Acharya's "Codification in British India," in which he shows how, in *every* case in which such alterations were made in Hindu law, they were made distinctly on the above understanding. They were made not *against* the wish of the community concerned, but absolutely in *consen-*

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[Rao Bahadur K. V. Rangaswami Aiyangar.]

ance with the opinions and traditions and customs of the community. The instances that were quoted by Mr. K. Paramesvaran Pillai, far from strengthening *his* position, I submit, only go to support *my* position even. In such an important matter as *Sati*, the Government of India legislated as ordinary civilised Governments do, not only in the interests of humanity merely; but, as they said, they made the law in the interests of the solidarity of Hindu customs, and sound Hindu doctrine. I do not wish to go further with this matter.

I may next point out certain important bearings in regard to the distinction between permissive legislation and compulsory legislation. I have already said that, if it is your wish to make a law by which you permit the minority or any section of the people to withdraw themselves from its new provisions, and to follow their usages, no objection can be raised. It is only when you want to have one uniform law and make that law applicable to all sections of the community, that I have very serious objection to take against it.

The second point is that it was suggested that I proposed that there should be unanimity of opinion before any such social legislation is undertaken. I made a distinction and said that, in regard to social legislation which was going to put an imperative obligation upon the people to obey it, you should provide a uniform law, only after unanimous consent is established. In cases where there is no such imperative obligation to follow the law, and people are given the opportunity to withdraw themselves from the law and the old law is still open to them, it may still be open to you to oppose the legislation, because even the minority may sometimes be seceders and reformers, as in the case of the Sikhs, the Brahmos and converts from Hinduism to Christianity; but in all such cases, the minority should be protected. When permissive laws of this kind are passed in the interests of the minority, they are made merely because a change of law is necessary to *protect* the minority. If it is necessary, and also reasonable to protect a minority, it is equally just and necessary to protect the majority. Therefore, I do not at all oppose the present provision of section 15 if it is to be applied to those members of the community who are undeniably asking for the provision. I am certainly willing that they should be given the provision. What I have been pleading for before the House is that those who have equally undeniably raised their voices against the provision should not, in spite of their unwillingness, be drawn into obedience to it. The unanimity that I have been speaking of is in regard to compulsory legislation only. May I point out in this connection that the position that I have taken is the identical position, which must be in the memory of my lawyer friends—the position taken by the Government of India and the Government of Madras in regard to the Hindu Gains of Learning Bill,—a position which the Government of India has been taking over and over again in regard to social legislation, in Mr. Basu's Bill, even

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in Dr. Gour's recent Hindu Marriage Act, which itself is of a permissive character? I have absolutely no quarrel whatsoever with permissive legislation. It is only in regard to compulsory legislation that I object. Coming nearer home, even Sir Sankaran Nair, who had great influence in the country, was not able to get his registration of Malabar Marriage Act accepted, except as a permissive measure. To take one other example, the Hindu Gains of Learning Bill,—

DEPUTY PRESIDENT: In view of Mr. Paramesvaran's unwillingness to accept your amendment, do you think it desirable to go into the merits of that controversy?

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: I am not standing here, Sir, as an advocate of Mr. Paramesvaran. I stand as the representative of a higher principle than that which Mr. Paramesvaran has been putting forward before the House. On this ground, it is absolutely irrelevant to me whether I am supported or opposed by him. Mr. Paramesvaran has not denied that his community wants still to be excluded from this measure, and his community is still opposed to the provisions of section 15, notwithstanding the authority of the Guru of the community, which has been publicly quoted to-day in support of section 15. Mr. Paramesvaran, belonging to that community, has chosen to dissent from his own Guru's view. Under the circumstances, as I have already said, it is absolutely irrelevant for me or any one else, to know how Mr. Paramesvaran is going to vote in the matter, or what his opinion is. The question of principle which I raise is a question which transcends the limits of the Ezhava controversy. It is one of the questions which ought to be kept in view when all such compulsory social legislation is undertaken.

To come back, Sir, to the illustration to which I was referring when I was interrupted, the Hindu Gains of Learning Bill, which had the support of most of the enlightened Hindus and which was introduced by Sir V. Bhashyam Aiyangar, supported by Sir T. Muthuswami Aiyar and Sir S. Subrahmanya Aiyar and unanimously passed by the Madras Legislative Council, was ultimately refused the Governor's assent so as to be passed into a statute, on account of its aim being not permissive, but obligatory. Sir Arthur Havelock withheld his statutory assent to that measure. To this day, the community suffers considerable inconvenience on account of the absence of that wholesome reform. I am merely pointing out that such unanimity is held by every civilised Government to be an essential antecedent condition to any *compulsory* legislation of this nature. This has been my position throughout. In regard to permissive legislation, we are in a different position altogether. I shall not labour these general points any further.

Then, in regard to the particular issues, there is one question which has appealed to me as involving a practical difficulty. If I secure the acceptance of the amendment now submitted to the Houses, I quite recognise it is not altogether the most convenient thing for the *misradayam* community to do, to ask for specific exemption for families in their section. Nobody would gainsay that fact. I say that in putting

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[Rao Bahadur K. V. Rangaswami Aiyangar.]

forward the amendment, I was aware that I should be causing some strain to that section of the Ezhava community which should not, strictly speaking, be subjected to the strain. There is a section of the *misradaya* community which only asks to be allowed to follow its traditional usages. There is, on the other hand, the section which will be benefited by the present section. There are also the two other branches of the Ezhavas. It is an anomaly to force into the dissenters the section of Ezhavas which wants the existing system. In all such cases, it should be the duty of those who desire a change to go and register their names. But this is impracticable in view of the smallness of the *misravazhi* community as compared to the body of Ezhavas which wants the reform. I am reminded of my old feeling in learning Sanskrit grammar, where the exceptions were so numerous that I often used to feel that it would be *easier* to get up the exceptions as the rule and the rule as the exception. Similarly, consider that the *misravazhi* community is numerically inferior even taken as a whole, and that very nearly one-half of this community is in favour of accepting the measure proposed in section 15. It will be then seen that the inconvenience may be accepted by the individuals of this smaller body, rather than that, by a blank refusal to register their families, the community be obliged to swallow the whole of what is implied in section 15. This is the point I would put before Mr. Parameswaran. It has been pointed out by my friend Mr. Subba Aiyar that it is not right to have 'individuals' exempted as in my original amendment. That is why the word 'family' was brought in instead of 'individual.' We have been told of litigation and trouble. I have understood, in the course of the debate and in the course of the interviews which the members of the community accorded to me, that there is a very strong feeling running against this measure being forced upon the *misravazhi* section. If the *misravazhi* people are really against this section, I thought it wise that, rather than allow this great evil, they would not mind the smaller evil of going to the Dewan Peishkar's Cutcherry and getting registered. The Ezhava ladies are not *ghosha*. They might also, in a public-spirited manner, agree to this kind of compromise. I am not unware of the difficulty. It is not an ideal solution. That I admit. To some extent it would be more equitable to subject the *marumakkathayam* people to this burden rather than the *misravazhi* people. But, I overlooked all these things, and thought that something might be done even at this stage to save the *misravazhi* people. So far I can see, they have not had that degree of representation in the debate which, I think, should have been their due in fairness to both sides. Unfortunately, that cannot be helped. It is this thing that induced me to bring forward the proposition in this form. I make no apology for bringing forward my proposition, which I place before the House along with my plea for fairness to the community.

There is only one more matter I want to refer to, before I resume my seat. It was said that I wanted that there should not be anything but codification of the existing customs of the community. I did not

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say so. I said that at the initial stage it was better to proceed on the line of least resistance, and also on the line of wisdom and wise statemanship. It struck me that it would be a sort of compromise which might fit the community, in the first instance to proceed and have a law consolidating the existing usuages and subsequently to make amendments of the codified law. This was the case with the Nair Regulation to which amendments are now coming in. So, in course of time, after the people become familiar with the new Ezhava law, it may be that all the members of the community will be brought round to ask for specific changes in it. I am told that the *misravazhi* people are negligible in number. I ask those on the other side: "Then why object? If they are persuasible, why object? They alone who are going to avail themselves of the exemption are going to be benefited by the proviso I seek to introduce". Under these circumstances, what is the objection to accepting my amendment? With these words, I once again appeal, with all the earnestness I am capable of, to the members of the House to vote for the amendment. It will not only be the means of deciding the specific question now before the House, but affect the larger issue, namely, the right of legislating, in this legislature or any other, and passing measures which are subversive of the existing usages and long-standing customs in force, and enacting laws against which voices of protest have been raised from those affected. That people have become reconciled to such laws and will become reconciled is absolutely no argument. People are reconciled to misfortune, but we do not pray for misfortune because of this. I therefore appeal to the House not to vote for the section, without clearly realising that the vote given is not merely a vote upon the specific question before the House, but it is a vote on the larger question of the right of legislating so as to impose, in matters of innocent social usage, the will of the majority on an unwilling and law-abiding minority.

DEPUTY PRESIDENT: I will first put Mr. K. V. Rengaswami Aiyangar's motion to the vote. The question is that the following amendment be made in Clause 15:—

(2) Notwithstanding anything contained in sub-section (1), any Ezhava *tarwad* wishing to exclude itself from the operation of the sub-section (i) may within *six* months from passing the Regulation notify its intention by registering its name in the office of the Peishkar of the Divisions in which the *tarwad* is situate.

(3) Notice of such intention as specified in sub-section (2) shall be given by not less than two-thirds of the major members of the *tarwad*.

(4) On receipt of such notice the Division Peishkar shall if he is satisfied that the said notice is agreed to and signed by the majority as provided for by sub-section (3), register the *tarwad* as one which is exempt from the operation of the provisions of sub-section (1), and if he is not so satisfied reject the notice.

The amendment was put to the vote and lost.

DEPUTY PRESIDENT: I will now put Mr. Paramesvaran's amendment to the vote. The amendment is as follows:—

Line 3, substitute the words 'one-half' for the words 'the whole', and add the following and the end:—the other half devolving on his *thavazhee*.

The amendment was put to the vote and lost.

The Council adjourned at 5-27 P. M.

S. PARAMESVARA AIYAR,
Secretary to the Legislative Council.

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